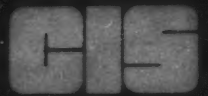
NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service, Inc.
Washington, D.C.



HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

HEARINGS

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

PART 1

JUNE 22 AND 23, 1982

Printed for the use of the Committee on Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1982

98-902 O

S401-75

COMMITTEE ON GOVERNMENTAL AFFAIRS

WILLIAM V. ROTH, JR., Delaware, *Chairman*

CHARLES H. PERCY, Illinois	THOMAS F. EAGLETON, Missouri
TED STEVENS, Alaska	HENRY M. JACKSON, Washington
CHARLES McC. MATHIAS, JR., Maryland	LAWTON CHILES, Florida
JOHN C. DANFORTH, Missouri	SAM NUNN, Georgia
WILLIAM S. COHEN, Maine	JOHN GLENN, Ohio
DAVID DURENBERGER, Minnesota	JIM SASSER, Tennessee
MACK MATTINGLY, Georgia	DAVID PRYOR, Arkansas
WARREN RUDMAN, New Hampshire	CARL LEVIN, Michigan
HARRISON "JACK" SCHMITT, New Mexico	

JOAN M. MCENTEE, *Staff Director*

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

WILLIAM V. ROTH, JR., Delaware, *Chairman*
WARREN RUDMAN, New Hampshire, *Vice Chairman*

CHARLES H. PERCY, Illinois	SAM NUNN, Georgia
CHARLES McC. MATHIAS, JR., Maryland	HENRY M. JACKSON, Washington
JOHN C. DANFORTH, Missouri	LAWTON, CHILES, Florida
WILLIAM S. COHEN, Maine	JOHN GLENN, Ohio
	JIM SASSER, Tennessee

S. CASS WEILAND, *Chief Counsel*
ELEANORE J. HILL, *Chief Counsel to the Minority*
KATHERINE BIDDEN, *Chief Clerk*

CONTENTS

Testimony of—	Page
Allen, Charles, protected witness	60
Deering, John S., Evaluator-in-charge, GAO	
Deering, John S., Evaluator-in-charge, GAO	116
Densmore, Edward A., Deputy Director, Human Resources Division, GAO	116
Dintino, Justin, J., Lt. Col., Executive Officer, New Jersey State Police	29
Faulkner, David, Investigator, Permanent Subcommittee on Investigations	3, 125
Gerace, Frank, subpenaed witness, president, Hotel Employees and Restaurant Employees, local 54, Atlantic City, N.J., accompanied by Bernard Katz, union counsel and Ronald Kidd, private counsel	105
Kowalski, Raymond J., Human Resources Division, GAO	116
Lyons, Michael, Labor Racketeering Squad, (Atlantic City area) New Jersey State Police	29
Maher, James T., Special Agent, Federal Bureau of Investigation	10
Natale, Ralph, former secretary-treasurer of local 170, accompanied by Glenn A. Zeitz, counsel	81
Nelson, James W., Unit Chief, Organized Crime Section, Federal Bureau of Investigation	10
Payne, John C., Assistant Director, Honolulu branch, GAO	116
Rutledge, Arthur, former president of local 5, Honolulu, Hawaii	140
Salerno, Joseph, protected witness	60
Scarfo, Nicodemo, subpenaed witness, accompanied by Robert Simone, counsel	100
Sullivan, William, Lt., New Jersey State Police, Casino Intelligence Unit, Atlantic City, N.J	29
Tam, Richard, secretary-treasurer, local 5, accompanied by Arthur Y. Park, counsel	150

EXHIBITS

	Introduced on page	*Appears on page*
1. Electronic tapes of conversation between Phil Testa, Frank Gerace, Nicodemo Scarfo, and Harry Riccobene	17	18
2A. Photograph of Frank Narducci and Nick Scarfo, taken November 4, 1977, in Philadelphia	23	24
2B. Photograph of Phil Testa and Frank Narducci, taken November 4, 1977, in Philadelphia	23	25
2C. Photograph of Phil Testa and Nick Scarfo taken September 12, 1978 in South Philadelphia	23	26
3A. Chart tracing Scarfo's connections with organized crime figures	30	31
3B. Chart portraying Scarfo's influences in labor in Philadelphia and Atlantic City	30	32
4. Copies of bank transactions of Frank Gerace and a copy of a check he issued for $10,000 to Lillian Gerace dated December 28, 1979; a copy of a check for $10,000 dated December 28, 1979 payable to Catherine Scarfo	50	51–53
5. Copy of Immunity Order of Ralph Samuel Natale, dated June 18, 1982, signed by Judge Gesell	87	88
6. Letter dated February 24, 1982 from New Jersey Commissioner of Investigation to the subcommittee which includes decoded telephone list confiiscated from Scarfo*	111	*
7. Newspaper article from the Atlantic City Press, dated May 1	111	112–114

Exhibits—Continued

	Introduced on page	Appears on page
8. Statement of Facts on the results of GAO's examination of the activities of the Hotel Employees and Restaurant Employees International Union, local 5	115	*
9. Copy of the 9th Circuit Opinion, dated February 11, 1976, *NLRB* vs. *Waikiki Marina Hotel*, and *AFL–CIO Culinary* and *Service Employees Union, AFL–CIO, Local 555*, and *Hotel, Restaurant Employees and Bartenders' Union, Local 5, AFL–CIO*	135	*
10. Notice concerning Unity House, Inc	135	136
11. Certificate of Amendment from the State of Hawaii regarding change in the Unity House Charter	135	137–139
June 23, 1982 from the law office of Scherr, Krebs, & Gitner	157	158

*May be found in the files of the subcommittee.

APPENDIX

	Page
Prepared statements of—	
Allen, Charles, protected witness	174
Densmore, Edward A., Deputy Director, Human Resources Division, GAO	160
Rutledge, Arthur, former president of local 5	179

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

TUESDAY, JUNE 22, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 6226, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; Senator William Cohen, Republican, Maine; Senator Warren B. Rudman, Republican, New Hampshire; and Senator Sam Nunn. Democrat. Georgia.

Members of the professional staff present: S. Cass Weiland, chief counsel; Eleanore J. Hill, chief counsel to the minority; Katherine Bidden, chief clerk; Howard Shapiro, staff counsel; Roy Geffen, detailed employee from the U.S. Postal Service; Jack Key, chief investigator to the minority; David Faulkner, detailed employee from the Federal Bureau of Investigation; and Jeff Minsky, investigator, Subcommittee on Oversight of Government Management.

Chairman ROTH. The subcommittee will be in order.

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on the Hotel Employees and Restaurant Employees International Union, to be held on June 22 and 23, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.
SAM NUNN,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. Today marks the opening of several days of hearings to be held over the course of the year and into next year during which this subcommittee will closely review some of the activities of the Hotel Employees and Restaurant Employees International Union—HEREIU.

These hearings, in one sense, complement the subcommittee's investigations in the late 1970's and early 1980's of three other large international unions—the Teamsters, the Laborers, and the Longshoremen. Each of these unions, as our hearing records have clearly established, has been riddled with corruption and mismanagement at their highest levels.

In the case of the Teamsters, it was Jimmy Hoffa and now Roy Lee Williams and the million dollar losses sustained by the Central States pension fund;

With the Laborers, it was crime bosses Raymond Patriarca, Santos Trafficante, Anthony Accardo and the Laborers International president, Angelo Fosco, who were reportedly engaged in efforts to defraud the union's health and welfare funds;

And with the Longshoremen, the FBI's UNIRAC investigation unveiled massive organized crime involvement and corruption in most of our east coast and gulf coast ports. The infiltration of organized crime in these unions is now a matter of historical record although many law enforcement officials doubt that it has abated despite numerous recent indictments and convictions.

In focusing our investigative resources on the Hotel Employees Union, the subcommittee has not acted without guidance as to the problems confronting this union relative to others in the United States. Law enforcement authorities throughout the United States have constantly expressed their concerns with this union. Indeed, the Department of Justice has characterized the hotel workers leadership, along with the leadership of the Teamsters, the Laborers, and the Longshoremen, as the most corrupt in the United States.

Our investigation has sought to unravel some of the relationships that underlie this union not only at the international level but also at the local level. Has the union been infiltrated by organized crime? We intend to explore this and we will approach it by looking at a variety of locals. We want to get the most detailed picture of how this union may have been affected by organized hoodlum influences, and the economic incentives that drive these corrupting influences.

Our goal in these hearings is threefold:

First, consistent with the legislative mandate of Senate Resolution 333, this subcommittee is charged with the responsibility to determine how organized crime affects our society and what illegal or improper labor practices currently prevail;

Second, it is our objective to measure the success of our Federal law enforcement agencies against our factual findings of labor racketeering;

And third, we seek to explore any reasonable legislative alternatives that might provide relief from what has become, in the case of a few large unions, a siege upon the union-represented working class of America, whose welfare and pension funds now represent a form of workmen's security in the billions of dollars.

The integrity of these unions and their funds must not be compromised by either corruption or mismanagement; if tougher legislation is required to insure this integrity, we must provide it. We must protect the assets of these unions for the rank and file.

This subcommittee in the recent past, primarily through the efforts of Senators Nunn and Rudman, has sought wide-ranging legislative

reform through the introduction of the Labor Management Racketeering Act of 1981. These hearings will continue to build the type of legislative record that supports the type of reform sought by S. 1785. In addition, these hearings will focus on potential legislative gaps in the Labor Management Reporting and Disclosure Act particularly with respect to the definition of labor organization and the ability of union officials to maintain their positions once they have refused to respond to questions relating to their fiduciary responsibilities.

Our hearings over the next 2 days begin with an examination of two specific hotel employee affiliated locals: Local 54 in Atlantic City and local 5 in Honolulu. Other locals to be focused upon in subsequent hearings will be those found in Miami, Las Vegas, Oakland, San Jose, Los Angeles, and San Diego. While much emphasis will be placed on local operations during the early stages of the our hearings, we will dedicate substantial attention to international operations when we conclude our hearings later this year.

Our first witness this morning is the subcommittee's investigator, David Faulkner. Mr. Faulkner, together with subcommittee lawyers, has led the staff's work in this area and I would ask that he be sworn and then present his statement.

Raise your right hand.

Do you swear that the testimony you are about to give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FAULKNER. I do.

Chairman ROTH. Please be seated.

TESTIMONY OF DAVID FAULKNER, STAFF INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FAULKNER. Thank you, Mr. Chairman.

My name is David Faulkner——

Chairman ROTH. Excuse me, before you begin, let me ask first whether any other member of the panel would like to make an opening statement?

Senator RUDMAN. Thank you. I don't have a formal opening statement, but I do think as the evidence is produced, these hearings will surely indicate the staff investigative problems which exist, which need solutions, and I just want to commend you, Mr. Chairman, for your leadership in convening these hearings in this most important area.

Chairman ROTH. Thank you Senator Rudman.

I understand Senator Cohen has no statement, so please proceed.

Mr. FAULKNER. My name is David Faulkner, staff investigator with the Permanent Subcommittee on Investigations. You have asked me to begin these hearings by outlining the purpose of the subcommittee's investigation into the Hotel Employees and Restaurant Employees International Union—HEREIU—as well as the investigative approaches that we have utilized.

I would also like to provide some background information on this union.

The Hotel Employees and Restaurant Employees International Union generally represents workers of the hospitality industry

throughout the United States and Canada; it maintains membership for a wide variety of laborers, ranging from skilled culinary workers and bartenders to busboys and dishwashers.

The international was established in Chicago in 1891. At first, only workers from pubs and restaurants were represented. Yet as America's cities began to grow so did the international, and soon hotel workers as well as food and beverage workers were represented. Thwarted only by prohibition in the 1920's, the international became the fastest growing union in the United States in the 1930's. By 1941 the international was the seventh largest union in North America.

Today the international is the largest service union in the United States. Approximately 235 locals from 48 States and 8 provinces in Canada are affiliated with the international which maintains its headquarters in Cincinnati, Ohio. Recent approval has been obtained, however, to move these headquarters to Washington, D.C. Edward T. Hanley is general president of the union and John Gibson formerly served as general secretary-treasurer.

Gibson was convicted in 1980 of misappropriating union property in violation of title 29, U.S.C., section 591(c). His conviction was affirmed in April 1982. When Mr. Hanley became president in 1973, the international had net assets totaling $21,419,029 and a membership of 448,000. As of April 10, 1981, international assets had been reduced to $12,064,098 and membership had declined to 380,000 as of December 31, 1981.

These statistics are interesting to note in light of the fact that the number of hotels and restaurants has increased nationwide. It is also significant to note that this falling membership has occurred despite a tremendous increase since 1973 in the number of paid international organizers and expenditure of international funds for organizing purposes.

Until the 1970's, affiliated locals of the hotel workers have retained control over their own health, welfare, and pension funds; under the direction of the current international leadership substantial efforts have been made to merge local funds into an international pension fund, which have assets of approximately $17 million and $69 million respectively. The organizing phenomenon and the merger of health, welfare, and pension funds will be matters that the subcommittee staff will address in more detail in our next set of hearings later this year.

Certain officials of the hotel workers have been generally associated with major organized crime figures in published accounts. This has long been the case with high-ranking officials of the Teamsters, the Laborers, and the Longshoremen. This type of connection has been documented by this subcommittee with respect to the Teamsters—1977–81—the Laborers—1977—and the Longshoremen—1981.

Prior to your directive to the staff to undertake this investigation, however, no detailed inquiry had been undertaken in recent years to verify similar allegations as to the HEREIU. It is of some historical note that the last time the union was examined was by the noted offshoot of this subcommittee, the Select Committee on Investigation of Improper Activities in the Labor or Management Field. In 1957 and 1958 it examined what was then called the Hotel and Restaurant Employees and Bartenders Union in the Chicago area to determine

the involvement of organized crime. The findings of that select committee, whose chairman was Senator John L. McClellan, are important:

> In the subcommittee's study of racketeer infiltration into legitimate business enterprise, no more compelling example can be found than the Chicago restaurant industry. The testimony is clear that key underworld figures in Chicago achieved influence in both the management and labor segments of the Chicago restaurant industry.
>
> The subcommittee finds that the mobster-dominated locals of the Hotel & Restaurant Employee Union in the Chicago area served the only purpose of giving a cloak of legitimacy to what was nothing more than a pure extortion racket. Judging from the testimony before the committee, the principal qualification for the position of business agent appears to have been a police record of significantly impressive length and a connection, real or implied, with the crime of homicide or other offense synonymous with violence.
>
> The subcommittee finds that these labor racketeers preyed upon restaurant owners and employees alike, with the latter cast in the unhappy role of hopeless captives . . .

Of more recent interest to the subcommittee in determining whether to launch a probe into the activities of the HEREIU is a 1977 internal Department of Justice report entitled "Organized Crime and the Labor Unions"—a report which the Department of Justice refused to provide to the subcommittee but was nonetheless available through various media persons who had obtained their own copies unofficially. While the subcommittee will not release the Justice Department report, it is appropriate for us to examine how the Department has assessed the impact of labor racketeering in the past, particularly as such relates to the HEREIU, and what it has done to prosecute those who have been identified as principal actors in racketeering activities.

In its report, the Department of Justice began as follows:

> This is a preliminary report on the organized crime influence in the labor unions today in the United States. The picture that it presents is thoroughly frightening. At least four international unions are completely dominated by men who either have strong ties to or are members of the organized crime syndicate.
>
> A majority of the locals in most major cities of the United States in the International Brotherhood of Teamsters (IBT), Hotel and Restaurant Employees Union (HRE), Laborers International Union of North America (Laborers), and International Longshoremen's Association (ILA) unions are completely dominated by organized crime.
>
> The officials of these unions are firmly entrenched; there is little hope of removing them by a free election process. Convictions for misconduct have been sparse and when one corrupt official is removed another soon takes his place. The result has been a complete domination of certain industries by hoodlums. Management personnel in the companies who must deal with these hoodlums have despaired of getting help from law enforcement authorities. They pay the price of labor peace so that they may survive. The cost is passed on to the consumer.
>
> Action must be taken to eliminate this syndicate control. Not only is this syndicate domination a national disgrace, it is a threat to the free competition of certain parts of the economy. . . .

The report continued by stating:

> After an initial period of research the Department of Justice decided to concentrate on the international unions which are most infiltrated by organized crime, and which pose the greatest threat to the economy. Without a doubt the worst are the International Brotherhood of Teamsters, International Longshoremen's Association, the Hotel and Restaurant Employees (this includes Bartenders and Culinary Workers) and Laborers International. We have sought to identify the major officers in these international unions who are syndicate controlled, and the organized crime figures to whom they answer. This report is not intended to be exhaustive. There are hundreds of officers in these unions who are syndicate controlled in some manner. We have selected only the most significant and those which could be documented with more than a mere allegation. . . .

The information in this report is based upon reports made by the Federal Bureau of Investigation, Department of Labor and the Strike Forces. In each case attorneys and agents were interviewed to update the reports. Several journalists from national news organizations were interviewed, as well as investigative agencies outside the federal government.

With respect to the HEREIU, the Department's allegations are powerful, and I quote as follows:

The Hotel and Restaurant Employees Union represents the converse of the International Brotherhood of Teamsters. In the Teamsters, the corruption and organized crime influence are a result of the massive infiltration of the local unions. The HRE on the other hand has been infiltrated from the top. This occurred as a result of the power wielded in the Chicago area locals and joint executive board by Joey Aiuppa, the underboss of the Chicago Syndicate. Edward Hanley was elected president of HRE International Union in 1973 on the power and influence of Aiuppa and the Chicago mob. This is not to say that none of the locals are hoodlum controlled or that Hanley is the first corrupt president of the Union. Nevertheless, Ed Hanley represents the classic example of an organized crime take-over of a major labor union. Since his election, Hanley has moved to solidify his power, both in terms of the local Union officials and elements or organized crime. Likewise, the HRE, under Hanley's guidance has moved to insure support in the appropriate government circles by carefully selected and generous political campaign contributions.

The Department's report continues by identifying several other specific union officers and several key locals where the dominance of organized crime is apparent.

To corroborate these and other allegations, the subcommittee has sought to answer the following questions.

First, is there a substantial organized crime or corrupt influence in the Hotel Workers and its larger affiliated locals? And if such exists how has it manifested itself?

Second, are the Hotel Workers and its larger affiliated locals being operated consistent with the Federal labor statutes and the rules of prudence and fiduciary responsibility dictated by those statutes?

The answers to both of these questions necessarily trigger additional inquiries pertaining to the effectiveness of the Federal law enforcement agencies charged with the investigation and prosecution of labor racketeering cases. These organizations are the Organized Crime and Racketeering Section of the Department of Justice, the FBI and the Inspector General's Office of the Department of Labor. In addition, questions have arisen relating to the Labor Department's enforcement of the provisions of the Labor Management Reporting and Disclosure Act—LMRDA—and the fiduciary obligation provisions of the Employee Retirement Income Security Act—ERISA.

Initially, subcommittee subpenas were issued to 16 locals affiliated with the HEREIU. In addition, records of the international union and the administrator of the international health and welfare pension funds were obtained. After this initial review of records, the staff set out to interview past and present union officials, union members, union service providers, as well as knowledgeable law enforcement officials and their confidential sources. Furthermore, a series of interviews has been conducted with federally protected witnesses whose associations with organized crime and union operations have provided a unique insight into the questions we have sought to answer. Several of these protected witnesses will be required to testify before the subcommittee.

In addition, part of the staff investigation continues to focus on ben-

efit plans within the HEREIU; records are being examined and the staff analysis will follow at a later date.

As of this hearing date, a total of 158 witnesses have been interviewed by the staff and over 48 subpenas have been issued.

In addition to its own independent work, Chairman Roth has enlisted the assistance of the General Accounting Office which has undertaken a comprehensive review related to HEREIU local 5 in Honolulu. This will be the subject of tomorrow's hearing. Further assistance has been provided by New Jersey law enforcement officials who have dedicated substantial resources to activities of local 54 in Atlantic City, the subject of today's hearing.

The subcommittee's investigation goes on although much evidence has already been gathered for presentation at these hearings and those to be scheduled for later this year. I must point out, however, the one tremendous investigative obstacle confronted by the subcommittee: That is, numerous refusals to provide information or testimony based either on assertions of the fifth amendment privilege or other grounds.

These refusals resurrect the issue confronted time and time again by this subcommittee in the past when it has sought to obtain information from union officers and employees concerning their official duties and obligations. This subcommittee has expressed its belief that such refusals are indicators that union officials are in violation of their fiduciary responsibilities by failing to disclose relevant information. The AFL–CIO policy on this matter was acknowledged by George Meany before the subcommittee in 1957 and reaffirmed by Lane Kirkland in 1981.

Again I will summarize by quoting directly from Mr. Meany's report in 1957. He remarked:

> It is the firm policy of the AFL–CIO to cooperate fully with all proper legislative committees, law enforcement agencies and other public bodies seeking fairly and objectively to keep the labor movement or any other segment of our society free from any and all corrupt influences. This means all officials of the AFL–CIO and its affiliates should freely and without reservation answer all relevant questions asked by proper law enforcement agencies, legislative committees and other public bodies seeking fairly and objectively to keep the labor movement free from corruption.
>
> We recognise that any person is entitled in the exercise of his individual conscience to the protection afforded by the Fifth amendment. We reaffirm our conviction that this historical right must not be abridged. It is the policy of the AFL–CIO, however, that if a trade union official decides to invoke the Fifth Amendment for his personal protection and to avoid scrutiny by proper legislative committees, law enforcement agencies or other public bodies into alleged corruption on his part, he has no right to continue to hold office in his union. Otherwise, it becomes possible for a union official who may be guilty of corruption to create the impression that the trade union sanctions the use of the Fifth Amendment not as a shield against a matter of individual conscience but as a shield against proper scrutiny into corrupt influences in the labor movement.

Mr. Kirkland's remarks in 1981 included the observation that:

> The policy that was stated by President Meany is simply a recitation of the policy established by the AFL–CIO Executive Council. That policy still applies. It is an intricate question. It is not as simple as some would suggest . . . I think the operative words are: To take it in order to shield one's self from a proper inquiry into one's fiduciary responsibilities. That, I think, is the operating language.

To date, 25 individuals, 18 of whom are past or present union officials, have declined official requests for subcommittee interviews or testimony. Most have explicitly or implicitly relied on their fifth amendment privilege in issuing such declinations. All are reasonably believed, based on independent leads of evidence, to be in possession of information which could be probative of the subcommittee's inquiry into the organized crime infiltration of the HEREIU or the management of union operations.

It is of some remarkable historical note to observe that one of the few remedial actions taken by the leadership of the Hotel Employees Union in its entire history came in the wake of the fifth amendment assertions by some officers before the McClellan committee in 1959 and 1960. The union removed from office those who asserted the privilege. These hearings, some 23 years later, will once again provide a test for the issue of whether legitimate inquiries, by either the legislative branch or executive branch, into the performance of duties and adherence to statutorily created fiduciary obligations can be blocked, without penalty, by an assertion of a constitutional privilege, or for any other reason.

The hearings over the next 2 days will serve only as a starting point for the overall presentation of evidence relating to the hotel workers. In selecting two locals to begin the public review of HEREIU-related activities, we have focused on local 54 in Atlantic City and local 5 in Honolulu, for distinct reasons. Each reflects the different types of issues confronted by the staff during the subcommittee investigation.

With respect to local 54, serious allegations of organized crime infiltration in the Atlantic City casino industry have surfaced in the past few years. Our inquiry has sought to test the veracity of these allegations particularly through witnesses and sources who have observed firsthand the involvement of syndicate representatives in the Philadelphia and Atlantic City areas.

On the other hand, our review of local 5 in Honolulu has involved a more detailed books and records analysis of a series of organizations which are affiliated with local 5 to determine whether the management of union funds and assets has occurred in a manner consistent with the Federal labor statutes. This analysis has been performed by the General Accounting Office with substantial reliance on subcommittee subpenas to compel production of necessary records.

Ultimately, after the presentation of evidence as to both local 54 and local 5, as well as approximately six other HEREIU locals, the subcommittee will be prepared to call upon international officers and representatives, as well as other knowledgeable witnesses, to resolve the basic questions over organized crime infiltration and management of union funds.

Thank you, Mr. Chairman, that concludes my remarks.

Chairman ROTH. Thank you, Dave.

I want to congratulate both you, Mike Eberhardt, and the others who have been involved in this investigation for the good work you have done.

I have no questions at this time.

We are pleased to have here Senator Nunn, who headed a number of similar investigations in the past and was successful in pursuing similar goals and objectives. Senator Nunn, do you have an opening statement?

Senator NUNN. Mr. Chairman, I will just put my opening statement in the record.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. Mr. Chairman, these hearings will again register this subcommittee's continuing concern over the ability of organized crime to infiltrate and manipulate to its own benefit labor unions and the industries of which they are a part. We have, in the past, examined in detail allegations of criminal influence and corruption in both the Teamsters Union, in our 1978 and 1980 hearings, as well as the International Longshoremen's Association (ILA), in our 1981 hearings on Waterfront Corruption. I congratulate you, Mr. Chairman, and the majority staff, for your fine work in today continuing this subcommittee's investigative work in the field of labor racketeering.

In focusing our attention on yet another facet of this critical problem, this week's hearings will examine the corrupt influence of organized crime in yet another union, the Hotel Employees and Restaurant Employees International Union (HEREIU). Our attention will be specifically drawn to the HEREIU locals: local 54 in Atlantic City, N.J. and local 5, in Honolulu, Hawaii. This morning we will hear of the alleged ability of known organized crime figures to influence the affairs of local 54 in Atlantic City. Tomorrow we will examine the alleged misuse and manipulation of the funds of local 5 in Honolulu. In both cases, as with our past inquiries into the Teamsters and the ILA, the evidence will show, unfortunately, that it is the honest rank and file union members which suffer as a result of corruption and mismanagement within the union hierarchy.

As a result of our waterfront corruption hearings last year, I introduced, with your cosponsorship, Mr. Chairman, S. 1785, the Labor Management Racketeering Corruption Act of 1981. That legislation will strengthen Federal law enforcement efforts against organized crime's growing control of union activities and funds. That bill has now been voted out of the Labor Committee and awaits action on the Senate floor. Hopefully, this hearing, in again underscoring the scope of labor racketeering, will help generate prompt and decisive action by the Senate on this bill.

Certainly this is an area which is deserving of the subcommittee's continuing attention and concern. With that in mind, I look forward to hearing the testimony and evidence which will be presented during the next 2 days on this most important subject.

I would say I want to thank you, Mr. Chairman, and the majority staff for pursuing this subject, which is not only important but one of the main areas of this subcommittee's jurisdiction now and in the past. I think this subcommittee clearly has been the leading force in trying to correct organized crime influence in the labor movement where we found it over a period of years.

Interestingly enough, we have S. 1785 pending on the calendar now, a bill I introduced along with others after a very comprehensive series of hearings, and that bill would go a long way toward correcting some of the abuses, particularly regarding union officials convicted who remain in office and in a position of power. That bill has a good chance of becoming law this year. I am certainly hopeful from these hearings

we will get not only a hearing of what this particular investigation revealed, but also some momentum to get that much needed legislation passed.

I think there are several members of this subcommittee including you who were coauthors of that bill, and this is a timely hearing, important, and I congratulate you for taking the leadership.

Chairman ROTH. Thank you.

As I stated in my opening statement, I am hopeful these hearings will provide some support and push to this legislation, which I think we all agree should be enacted into law this year.

Are there any questions?

If not, we will proceed with Mr. Nelson, from the FBI, as well as Special Agent Maher.

Gentlemen, if you would raise your right hand.

Do you swear that the testimony you are about to give before the subcommittee is the truth, the whole truth, and nothing but the truth, so help you?

Mr. MAHER. I do.

Mr. NELSON. I do.

Chairman ROTH. Mr. Nelson, if you would proceed with your prepared statement, please.

STATEMENT OF JAMES W. NELSON, UNIT CHIEF, ORGANIZED CRIME SECTION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, D.C., ACCOMPANIED BY SPECIAL AGENT JAMES T. MAHER OF THE FBI PHILADELPHIA OFFICE

Mr. NELSON. My name is James W. Nelson. I am the unit chief of the Organized Crime Section, Federal Bureau of Investigation, Washington, D.C.

On behalf of Director Webster, we welcome the opportunity to provide information whenever possible on organized criminal activities in the United States. Clearly, successes achieved against organized crime have resulted from the combined efforts of the three branches of Government. La Cosa Nostra, about which I testified before this subcommittee in April 1980, has been under investigation by the FBI since the late 1950's. Laws enacted by the Congress in the 1960's and in 1970 in the form of the Omnibus Crime Control and Safe Streets Act, antigambling and loansharking statutes, the Travel Act, and Federal wiretapping, have been the most effective legislative weapons against organized crime ever to have been passed.

For the first time in any of our lives, we are seeing that La Cosa Nostra, in many parts of the country, is being substantially damaged by law enforcement efforts; however, the La Cosa Nostra's violent and coercive activities have not ceased. Our continued ability to protect informants' identities, maintain the security of witnesses, and to penetrate criminality through undercover operations are of paramount importance if we are to succeed against this criminal group. The courts have consistently upheld both the laws mentioned previously and our investigative use of them. Much work remains to be done.

Special Agent James T. Maher of our Philadelphia office and myself are prepared to respond to your questions.

Chairman ROTH. Mr. Maher, I understand you have no prepared statement but you are prepared to answer questions.

I am going to ask my colleague, Senator Rudman, if he would pursue the line of questions.

Senator RUDMAN. Agent Maher, tell us how long you have served with the Bureau and your experience in organized crime investigations.

Mr. MAHER. I have been a special agent for the FBI for nearly 12 years. During that time, I worked cases in New York City targeting the La Cosa Nostra, Nicodemo family, Gambino family, and the Genovese family. Since coming to Philadelphia, for the past 5 years I have worked cases targeting the Bruno family of La Cosa Nostra.

Senator RUDMAN. Agent Maher, you are obviously well qualified to testify this morning. It is our understanding that you will have some testimony for us here this morning regarding background information developed by you and your associates involved with individuals named Ralph Natale and Nicodemo Scarfo; is that correct?

Mr. MAHER. Yes, sir, that is correct.

Senator RUDMAN. I think possibly in the general context of this hearing, although this evidence has been produced in prior hearings, you might just describe the organization you referred to as La Cosa Nostra, you might indicate what happened over the last several years in the Philadelphia-Atlantic City area with that organization.

Mr. MAHER. Yes, sir, La Cosa Nostra is an expression which translated means, "This thing of ours." It is used by members of that organization to refer to the organization.

It is a fairly formally structured organization, at the head of which is a person known as the boss. Directly beneath him and acting in his absence is a person known as the underboss.

Also there is another individual referred to as the consigliere or counselor. It is his function to advise the boss on family matters and problems which might arise between families.

Beneath them are individuals known as Capo regimes—they are heads of groups which are called regimes. It may vary—the number of persons within the regime may vary—from 1 or 2 to 10 or more. These persons are what we refer to as made members of La Cosa Nostra. That is, they have been initiated through a ritual initiation ceremony into La Cosa Nostra.

With respect specifically to the Bruno family of La Cosa Nostra, until March 1980, it had been virtually free of violence. Since 1980, there has been quite a bit of violence really unparalleled in the history of that family. There have been at least nine members brutally murdered since March 1980. There have been other murders in the Philadelphia area which are directly related to the activities of La Cosa Nostra.

Senator RUDMAN. And the general conjectures among informants as to the cause of this violence?

Mr. MAHER. Sir, the best information we have is that it stems from a struggle internally to gain control of the family. While the situation in Atlantic City is not probably the central issue, it certainly does affect what happens in Philadelphia.

Senator RUDMAN. You have testified, if I am not mistaken, in the Federal district court in Camden as to the functioning and the basic causation of some of these problems, and I think it might be interesting to put in the record that which you have already testified to pub-

licly, and that is that a great deal of information that you have testified on and will speak of today comes from excellent sources, namely, those that are involved or very close to members of the La Cosa Nostra.

Mr. MAHER. Yes, sir, I testified in U.S. district court in Camden, N.J., on June 25, and July 7, 1981, regarding this. The information I am providing in court and now providing comes in part from persons that I know to be members of La Cosa Nostra—members in effect of different families of La Cosa Nostra.

Senator RUDMAN. As a matter of fact, without obviously disclosing sources you have personally talked to, interviewed and corroborated statements made to you by made members of the families along the eastern seaboard.

Mr. MAHER. Yes, sir, I have.

Senator RUDMAN. Could you tell us whether or not from your experience if some of these La Cosa Nostra families cooperate with each other in some areas?

Mr. MAHER. Yes, sir, they do cooperate with one another. In fact in a court-authorized oral interception made in 1977, there is a discussion involving Nicodemo Scarfo, Frank Gerace, and Phillip Testa. Whereas Mr. Scarfo does the arrangements made between La Cosa Nostra families in Philadelphia and the La Cosa Nostra families in New York to cooperate and share the proceeds of the illegal gambling operation in the Trenton, N.J., area.

Senator RUDMAN. You will be testifying this morning on information regarding former hotel officials Ralph Natale, also on Nicodemo Scarfo.

With that in mind, tell us what the Bureau learned regarding Mr. Natale, including his criminal background, and his affiliation with the Hotel Employees?

Mr. MAHER. Yes, sir, as I testified previously and in district court in New Jersey, much of my information comes from my own investigations, from reliable informants, with information picked up on court-authorized wiretaps, from interviewing witnesses and protected witnesses.

Ralph Natale has been convicted of arson, racketeering, and mail fraud charges in the eastern district of Pennsylvania, stemming out of an arson on a business known as Mr. Living Room.

For that crime he was sentenced to 12 years in prison in 1978.

In 1980 he was convicted of drug charges and received a 15-year sentence to run consecutive for the 12 years for arson. He is currently under indictment in New Jersey on narcotic charges.

He was the secretary before his incarceration of local 170, which was merged into local 54, and he was an organizer also for the international union.

Senator RUDMAN. Agent Maher, do you have evidence that links Mr. Natale and the Bruno family?

Mr. MAHER. Yes, sir. In approximately 1978, Mr. Natale sought the assistance of one Charles Allen, who I believe will testify later concerning a gang war which was about to erupt in the Bruno family, and he elicited his family—Mr. Allen's, in securing weapons to be used in that gang war. Additionally, Mr. Allen was present in a meeting—he learned about a meeting where Mr. Bruno gave Natale his blessings to organize the hotel workers in Atlantic City.

[The criminal record of Ralph Natale follows:]

Contributor: Identifier (ORI) Name Case Number (OCA)	Subject: Name State Number (SID)	Arrested or Received	C - Charge D - Disposition

THE SUBJECT'S IDENTIFICATION RECORD APPEARING HEREUNDER HAS BEEN RETRIEVED FROM THE IDENTIFICATION DIVISION FILES BASED ON DESCRIPTIONS FURNISHED IN YOUR REQUEST WHICH MATCHED THOSE ON FILE.

YOUR NONMATCHING DESCRIPTORS, IF ANY, AND ALL DESCRIPTORS ON FILE ARE LISTED BELOW.

NAME OF DESCRIPTOR	YOUR REQUEST	IDENTIFICATION DIVISION FILES	NAME OF DESCRIPTOR	YOUR REQUEST	IDENTIFICATION DIVISION FILES
RACE		WHITE	BIRTH DATE		03/06/31
SEX		MALE			03/06/35
HEIGHT		507	BIRTH PLACE		PENNSYLVANIA
WEIGHT		170	SOC. SEC. NO.		203-26-4593
HAIR		UNKNOWN			
EYES		BROWN			
SCARS ETC.		TATTOO ON UPPER LEFT ARM TATTOO ON UPPER RIGHT ARM			

NATIONAL CRIME INFORMATION CENTER FGPT. CLASS. 22 16 11 CO 14 19 54 CO CI C

PAFBIPHOO
FBI PHILADELPHIA,PA
USM074332
NATALE,
RALPH SAMUEL
12/11/74
C-ITSP
D-ACQUITTED-06/12/75

NJFBINKOO
FBI NEWARK,NJ.
NATALE,
RALPH S
07/11/78
C-RICO CONSPIRACY
D-CONVICTED-01/12/79
CONFINEMENT-BY
FG.1 CT IMPRIS.1CT 5Y. CONV.
C-RICO-ARSON
D-CONVICTED-01/12/79
1 CT NOT GUILTY 1 CT 3Y.
CONCURRENT WITH 1ST CT
C-MAIL FRAUD
D-CONVICTED-01/12/79
1CT-5Y CONVS.5CTS-5Y EA. CONV
W/MAIL FRD
C-RICO
D-CONVICTED-01/12/79
1 CT 12Y CONC W ALL PREVIOUS
COUNTS

FLDEA0200
DEA MIAMI,FL.
G1-79-0072
NATALE,
RALPH S.
02/08/79
C-CONSPIRACY TO DISTRIBUTE
CONTROLLED SUBSTANCE
CONV. 180 MONTHS
SENT $20,000 FINE

REQUESTING AGENCY COPY
PAFBIPHOO
FBI PHILADELPHIA,PA.

1-21-81 C-AIDN ABETT RICO
VIOLATION
SENT 15 YRS

4-12-82 C-Poss. to Distr.
Aid & Abet

Senator RUDMAN. Go on and tell us about Mr. Scarfo including his criminal record and your knowledge of any organized crime affiliations.

Mr. MAHER. Yes, sir. Mr. Scarfo has convictions for manslaughter and weapons charges. He is a member of the Philadelphia family of La Cosa Nostra. He has admitted that he is a member, we have also intercepted conversations, the content of which clearly indicate that he is a member, wherein he discusses the operation of the family with three other persons.

[The criminal record of Nick Scarfo follows:]

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD Phila Pa	Nicholas D. Scarfo #227437	5-8-48	agg A & B by cutting & kicking	disch
PD Phila Pa	Nicholas D. Scarfo #227437	6-4-63	willful killing-homicide	6 mos to [illegible]
Phila Pr Phila Pa	Nicholas Scarfo #I-1647	2-5-64	vol manal	6 mos to 23
PD Atlantic City NJ	Nick Scarfo #CR28-179	8-7-64	appl crim reg	reg & rel
Co Pres Off Trenton NJ	Nicodemo Scarfo #19743	6-23-71	contempt of Crt	
Youth Reccpt & Corr Center Yardville NJ	Nicodemo Scarfo #M-19	6-23-71	NJ SCI-contempt	indet
SPol West Trenton NJ	Nicodemo Dominick Scarfo NJ37655 SID 844103	7-7-76	summary Contempt of Court	
SO Mays Landing NJ	Nicodemo Dominic Scarfo [illegible] SID 844103	1-4-80	poss of weapon by convicted felon 2C:39-7	
PD Margate City NJ	Nicadémo Dominico Scarfo 2356 SID 0844103	12-23-79	Murder(2C:11-3)	

Senator RUDMAN. And do you have information that indicates that Mr. Scarfo and former union official, Mr. Natale, ever discussed control of those things which La Costa Nostra likes to control in places like Atlantic City?

Mr. MAHER. In Atlantic City in particular, it is our information that, as I said previously, there was this meeting wherein Mr. Natale was given permission to organize the hotel workers in Atlantic City and all the ancillary services, that is glassware, linen, produce, meats, and so forth, were to be the responsibility of Mr. Scarfo.

Senator RUDMAN. It is my understanding much of the information the Bureau received was gleaned from duly authorized electronic surveillance?

Mr. MAHER. That is correct, sir.

Senator RUDMAN. Could you identify for us this morning any specific conversations that took place that might be pertinent to the subcommittee's hearing this morning?

Mr. MAHER. Yes, sir, on November 4, 1977, between 3:08 p.m. and 3:39 p.m., a conversation was intercepted in the offices of the Tyrone Talent Agency located on South Broad Street in Philadelphia. The conversations were between Phillip Testa who was the underboss of the Bruno family, Frank Gerace, who was a capo in the family, and Nicodemo Scarfo and Harry Riccobene.

The conversation begins where Phillip Testa inquires of Riccobene what he heard required about the naming of a new consigliere. The old one had died and they were undertaking to select a new one. They described the fact that Bruno was keeping everyone in the dark with respect to who his choice for a consigliere would be.

Further on Mr. Phillip Testa indicates that his choice for consigliere would be Nicky Scarfo.

Also, during the conversation Frank Gerace identifies himself in the conversation to the others present as a capo and Phillip Testa as an underboss. He said it is unusual that he is a capo and they don't know what is on the bosses' minds.

They also discussed the role of the consigliere as the man who tries to save your life. He is kind of a man between the soldiers and the boss, and it is his responsibility to try to save your life. He is supposed to have no loyalities to any soldiers, just acts like an arbitrator.

They also describe the fact there are two factions at that time as of November 1977 existing within the family, that they say Bruno should look at the family as La Cosa Nostra, "this thing of ours" and there should be no factions.

Since November 1977, Phillip Testa was murdered when a bomb exploded on the front porch of his home in Philadelphia as he tried to walk in the front door.

In January 1982 Frank Narducci who at the time was on trial for racketeering charges was shot to death as he stepped out of a car behind his house, and approximately 3 weeks ago Harry Riccobene was shot five times and wounded as he made a phone call in a phone booth in Southwest Philadelphia.

Additionally in the conversation they refer back to the former consigliere, and how vindictive he was. They discuss the fact that at one time he tried to kill Nick Scarfo, and Phil Testa remarks "If I was not around a couple of times you would have went."

Senator RUDMAN. Mr. Chairman, I would ask at this point in the record unanimous consent to introduce this duly court-authorized transcript of electronic tapes.

Chairman ROTH. Without objection, so ordered.

[The electronic tapes referred to was marked "Exhibit No. 1," for reference and follows: The tapes have been cut for security reasons and therefore do not follow in sequence.]

EXHIBIT NO. 1

PH 182-250
PHEDPA #175
11/4/77-Tape 1

H: The new what?

PT: The new "Cosig"! The new Consiglieri! (TESTA utters Italian expression...) ..."Menda se vis"...(PH).

H: I heard, remember the last time I talked?

PT: Uh huh.

H: That's the last time, the last I heard.

PT: Uh huh.

H: Not a thing. Not one thing!

FN: He... never says nothing to us. I'm "Capi" and don't know. I presume he don't know either.

H: No, he don't. Nobody knows.

PT: No.

FN: Yeah.

H: What the hell, he don't know! How are we gonna know?

PT: Right.

NS: And he's the "under"

FN: Right, and he don't know, right?

H: Right? That's what I say. How are we gonna know? And I don't even ask, you know.

NS: No, that's right. If the guy wants to tell you, he tells you.

H: Uh huh.

PT: He's got smarts. He's not a kid, you know.

H: I know it.

PT: He's 48. Am I ah... How old do you have to be to ah...get somewhere? I mean...

How old are you, NICK?

FN: Forty-seven (47)? 48?

NS: 48. I'll be 49.

PT: I think you're old enough. I don't know...understand. They look at us like we was kids.

he wanted to deny him.

Well then, ah...that would. then that...

PT: That's why.

NS: Would be a very bad involvement.

PT: You see, what you're saying makes a little sense. In other words, let's say he said, "NICKY." You know. Well, you know in the back of my mind I gotta say, "That will be his selection." Because when I analyze the thing, you know, from the overall picture. Because he's

looking at it, not as
La Cosa Nostra.
He looks at it Like its
two (2) factions. Let's
face it. So he wants to
satisfy this a...

R: A faction

PT: A faction. All right? So...

NS: Which is very wrong.

PT: Of course, it's wrong!

NS: Very wrong.

PT: You're supposed to look at
this thing, La Cosa Nostra...that's
the end of it. All right.
So, so the only one qualified
to get it, I would have to
say is him.
was the most unbalanced
ah...

R: Which one?

NS: JOE, JOE
...I think he was like
this. He...he was way
off the scale, PHIL!
I saw it and...

PT: Oh! He was more this
way than anything else!

A...a guy in that position,
See, a guy in that position?
He's supposed to be the
guy that tries to save
your life!

PW: Save you, save you, right!

PT: You know, it's got to be a
guy that can really...

NS: You need, you need...

H: Right.

PT: He tried every way in the world to kill him!

MS: He tried to for 20 years, 15 years now.

PT: Guess what, if I ...

MS: He tried to kill me!

PT: If I wasn't around a couple of times, you would have went!

MS: Yeah, sure!

FW: And after what I seen, huh...

MS: Oh, yeah, CHICK.

He was really bad!

FW: Right.

MS: A lie can kill somebody!

H: Oh yeah.

PT: Yeah, he lied to me in my house...(laughs)... (inaudible)

FW: No, he would lie and believe it. After a day he believes that that F...(obscene)...lie is true. That's the kind of liar he is.

H: Yeah, I know. I've had a few dealings with him.

NS: In other words, Philadelphia and New York, they made an agreement. If either one of them open a game...

H: Give the other...

NS: Give the other fifty percent, if they accept it. If they don't want it there, they keep if for themselves! so they have this agreement

PT: This is Trenton?

NS: Yeah, this is Trenton.

NS: In other words, they have an agreement for card games and crap games. Say like you're from New York and I want to open up this game. I say, "Look, I want to open up. You've got fifty percent." Now say I don't want it, you know. But the way it stands now PAPPY's got fifty percent and ah...NICK RUSSO and them guys have got fifty percent. What I think, the guy, NICKY RUSSO, is really operating the game for himself and is really making the game, and on the other end, he's got a partner (PH).

PT: The other end is ah... afraid of the heat.

Senator RUDMAN. Tell us now, Agent Maher, if you have with you any exhibits we might incorporate into the record that would indicate Mr. Scarfo's connection with organized crime figures.

Mr. MAHER. Yes, sir. At the same time on November 4, 1977, through a camera that was remotely controlled, we photographed Phillip Testa, Frank Narducci, and Scarfo exiting the Talent Agency located on South Broad Street in Philadelphia.

Senator RUDMAN. Could the subcommittee clerk bring those photographs to the chairman?

Mr. Chairman, I would ask unanimous consent that those exhibits furnished by Agent Maher now be incorporated into the record as part of the evidence of this hearing?

Also along with these is a photograph subsequently received from the FBI showing Phil Testa and Nick Scarfo in South Philadelphia on September 12, 1978.

Chairman ROTH. Without objection, so ordered.

[The photographs referred to were marked "Exhibits Nos. 2A, 2B, and 2C," for reference, and follow:]

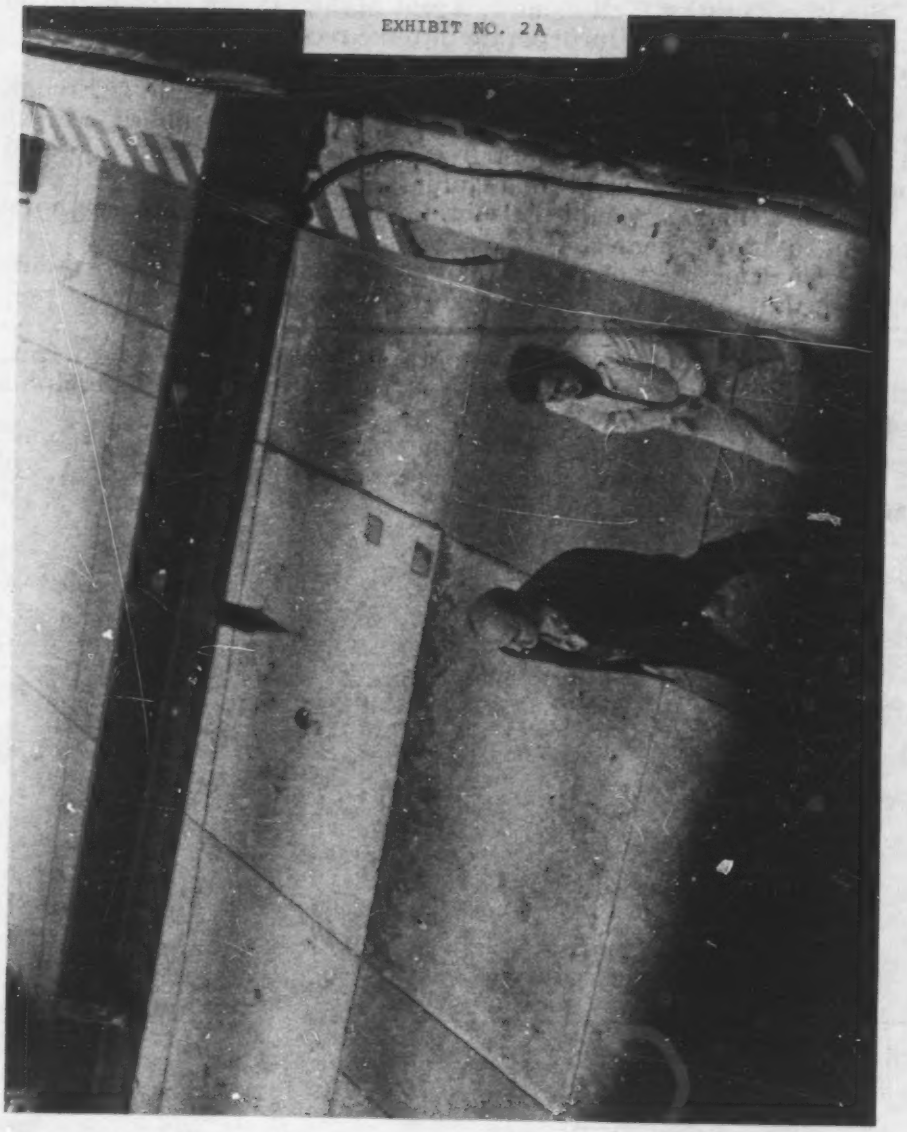


EXHIBIT NO. 2A

EXHIBIT NO. 2B

EXHIBIT NO. 2C

Senator RUDMAN. Agent Maher, could you tell us the meaning of Scarfo's statement "A lie can kill." He said that at the November 14, 1977, meeting with the now deceased Phillip Testa and others I assume.

Mr. MAHER. Yes, sir.

Senator RUDMAN. Could you amplify that?

Mr. MAHER. In the context the statement was made, they are discussing the shortcoming of the present consigliere. They describe the fact he surrounded himself with people that would lie to him and tell him what he wanted to hear and he would rely on that, and Mr. Scarfo's remark was a lie could kill, means his reliance—he is the man to save your life—and his reliance on the falsehood could cost you your life.

Senator RUDMAN. Do you have other evidence in addition to the photographs, the surveillance, and the testimony from informants that you have not testified so far up to this date, Agent Maher, concerning Mr. Scarfo's linkage with other known crime figures?

Mr. MAHER. Yes, sir. Pursuant to a search that was made in Mr. Scarfo's residence, the local authorities in the State of New Jersey seized a telephone book, telephone directory, the kind you write numbers into. Many of the numbers in that book were encoded. When the code was broken by the New Jersey authorities and the subscribers obtained the decoding numbers, they contained the numbers, not only of several other persons who were members of the Bruno family of La Cosa Nostra, but also members of the Genovese family, Gambino family of La Cosa Nostra.

Senator RUDMAN. Finally Agent Maher, could you give us your impression based on your investigation and broad experience in the field as to why it is that organized crime as this hearing will reveal, obviously has a rather successful record of infiltrating these labor unions?

Mr. MAHER. Well, sir, their success in infiltrating labor unions is the same as their success in every other endeavor they undertake, and that is that they are willing to use coercive measures. They are more than happy to use violence. They will burn your business, blow up your car, blow up your home, threaten your family. They will kill you, and that gives them quite a competitive edge.

Senator RUDMAN. There has been some testimony at these hearings, prior hearings, public information, that relates to the whole gambling operation in Atlantic City, that although the operations themselves may be legitimate, that they act as a magnet for these organized crime figures to move in and take control of all these ancillary services, the supplying of linen, fish, chicken, et cetera, and they are putting management in a situation where the management dare not compete with other people, is that correct?

Mr. MAHER. I think that is a correct statement.

Senator RUDMAN. I want to thank you and your associate for your testimony. I think as these hearings develop and as other witnesses appear, the significance of your testimony based on good evidence, based not on hearsay, but the best evidence available, will clearly show when all the evidence is developed at the hearing, that legislative actions are needed in the area.

Mr. Chairman, thank you very much for the opportunity to question Agent Maher.

Senator COHEN. You indicated that the laws we passed down to the Omnibus Crime Act, the Travel Act, Federal wiretap, were the most effective legislation ever passed. The next statement you say this substantially damaged organized crime but violence and crime have not ceased. Now, are these the most effective things we can pass, and violence has not ceased, what do you recommend we do?

Mr. NELSON. I don't think these are inconsistent statements. For the first time in our experience, we are seeing a number of families throughout the United States being substantially damaged. In the last 18 months, over half the bosses in La Cosa Nostra have been convicted or indicted. The laws have been very helpful. Certainly sentencing is a major portion of what can and should be done here and sentencing has been extremely inconsistent. I don't mean to give the impression at all that La Cosa Nostra is finished. Obviously not. as Jimmy Maher and Mr. Faulkner testified and others, La Cosa Nostra remains a powerful group in this country and a lot of work is to be done, but they are hurting in many areas of the country for the first time.

Senator COHEN. Have you seen an increase in the violence? You mentioned the Bruno family was never afflicted with violence before 1981.

Mr. NELSON. Yes, the same is going on with La Cosa Nostra in St. Louis, and the Syrian mob. In New York we have had a gang war in the Bonanno family. Yes, violence has increased.

Senator COHEN. Do you have any recommendations what we should be doing in that?

Mr. NELSON. Well, our informants we must maintain. That is the only way we get information. The laws I mentioned have been very helpful. The undercover operations have given us entrees that we never had before and allow us to take advantage of the information we get from the undercover agents. But again back to the sentences, we look at L. Galante, the boss of the Bonanno family. He was 67 years old when killed. He had spent over 30 years of his life in jail. Convicted of felonies six times, he did not serve anywhere the sentence he could have received. We see it repeated, this sequence of events: conviction, sentence to a term, and service of way less than the sentence that is imposed.

Senator COHEN. Thank you, Mr. Chairman.

Senator RUDMAN. I want to thank you Agent Maher and the FBI for your testimony today and particularly for the FBI's cooperation during the past several months we have been conducting this investigation. As I think you have already been advised we will submit to the FBI the evidence that we developed during these hearings, but I do appreciate the support and assistance of the FBI.

Mr. NELSON. Thank you, sir.

Chairman ROTH. Our next witness is New Jersey State Police Lt. Col. Justin Dintino. I understand that he is to be accompanied by two of his unit chiefs today. Will you come forward.

Would any of you who are going to offer testimony rise and raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DINTINO. I do.
Mr. SULLIVAN. I do.
Mr. LYONS. I do.
Senator RUDMAN. Please be seated, and Colonel Dintino, I would ask you to proceed, please.

STATEMENT OF LT. COL. JUSTIN J. DINTINO, EXECUTIVE OFFICER, NEW JERSEY STATE POLICE; ACCOMPANIED BY WILLIAM SULLIVAN, LIEUTENANT, CASINO INTELLIGENCE UNIT IN ATLANTIC CITY, AND MICHAEL LYONS, IN CHARGE OF LABOR RACKETEERING SQUAD IN ATLANTIC CITY AREA

Mr. DINTINO. Mr. Chairman, first I would like to introduce on my left Lt. William Sullivan, who heads our casino intelligence unit in Atlantic City.

On my right is Michael Lyons, in charge of our labor racketeering squad in the Atlantic City area.

I then wish to read from my prepared statement.

Mr. Chairman, my name is Lt. Col. Justin Dintino of the New Jersey State Police and I appear before the subcommittee to provide testimony concerning the issue of organized crime infiltration of Atlantic City Local 54 of the Hotel Employees and Restaurant Employees International Union.

At the outset, it would be appropriate for me to briefly outline how the New Jersey State Police function within the context of enforcing both the general State criminal statutes as well as the special statutes relating to the casino gaming industry.

With respect to our general responsibilities, the New Jersey State Police serves as a division under the auspices of the New Jersey attorney general; in this capacity we have dedicated substantial enforcement and intelligence resources to the investigation and prosecution of organized crime. In addition, the State Police have contributed approximately 125 of its officers and personnel to the New Jersey Division of Gaming Enforcement, also known as the DGE. The DGE is also a separate division within the office of the attorney general and was created in 1977 as a result of the enactment of the Casino Control Act. The legislation requires that the State of New Jersey establish an enforcement mechanism to insure against the infiltration of organized crime into the casino industry. The DGE provides this enforcement capability in conjunction with the five member Casino Control Commission—CCC—appointed by the Governor.

The DGE operates under the immediate supervision of a director who is appointed by the Governor and who answers to the attorney general and I might add that director is present, Robert Sturges.

The DGE currently employs approximately 475 people including the New Jersey State Police personnel. Within the framework of the DGE, the State Police have engaged in a variety of enforcement actions as well as in a substantial information and intelligence gathering exercise in the Atlantic City area. It is from the benefit of this work and perspective that I am able to testify today.

Since the focus of your inquiry is specifically local 54 and more particularly, the influence that Nicodemo Scarfo exercises over this local, it is only appropriate that I historically set forth his rather rapid elevation as the boss of the former Bruno crime family.

98-802 O - 82 - 3

Scarfo was initially sent to Atlantic City in 1964 primarily to oversee Bruno's illicit interest in what was at that time, a decaying and economically distraught city. Since 1964, and more recently there has been a number of homicides within the Bruno group, including Angelo Bruno, the boss and his successor Phillip Testa. At this time, Scarfo is the undisputed boss of the what is now the old Bruno crime family.

Local 54 of the Hotel Employees Restaurant Employees International Union, headquartered in Atlantic City, greatly expanded its membership and sphere of influence from 1975 to the present. In 1975 there were approximately 2,500 members of local 54, many of whom were unemployed due to the depressed state of resort business in the Atlantic City area at that time.

In the ensuing years, local 54 increased its membership through mergers with locals 33 and 491 and the opening, to date of nine licensed casinos. Local 54 now covers New Jersey from Trenton south with about 14,000 members. In April of 1982, the casino industry supported 28.742 employees, 10,000 of whom are members of local 54. The other 4,000 members are employed in noncasino businesses.

The emergence of Nicodemo Scarfo as the boss of the Bruno crime family has resulted in an alliance being developed with Genovese, Luchese, and Gambino crime families. The alliances are primarily in legitimate business ventures. I might point out that these alliances among organized crime families is not a new phenomenon in that we have consistently found that while one organized crime group may be dominant in a specific geographic location, it is not unusual—for a number of reasons—for other criminal groups to jointly enter into both legal and illegal activities. This is the case in Atlantic City.

On March 21, 1980, Angelo Bruno was slain and his underboss, Phil Testa, gained control of this family. When Testa was murdered in March 1981, Scarfo assumed control of the family, and with it, control over the activities of local 54. Not only does there appear to be an effort of a larger scale by this organized crime group but there is also evidence of similar efforts by members of other New York crime families as well.

We know that Scarfo remains in control of the traditional criminal activities of loansharking, gambling, labor racketeering, narcotics and prostitution and has and still does exert influence in the local construction industry. Other crime groups have been discovered through investigation in several ancillary industries such as junket and limousine services and maintenance companies.

I want to clarify something here. Not to contradict with what Agent Maher said, but we have found organized crime in several ancillary areas. However, there are approximately 250 ancillary services within each casino industry, and they are not all controlled by organized crime. Only several are.

At this time I would like to introduce two charts which graphically depict Scarfo's influence and alliances. This first chart traces Scarfo's connections with organized crime figures. The second, portrays his influences in labor in Philadelphia and Atlantic City.

[The charts referred to was marked "Exhibit No.'s 3A and 3B," for reference, and follows:]

EXHIBIT NO. 3A

SCARFO & ATLANTIC CITY LABOR ORGANIZATIONS

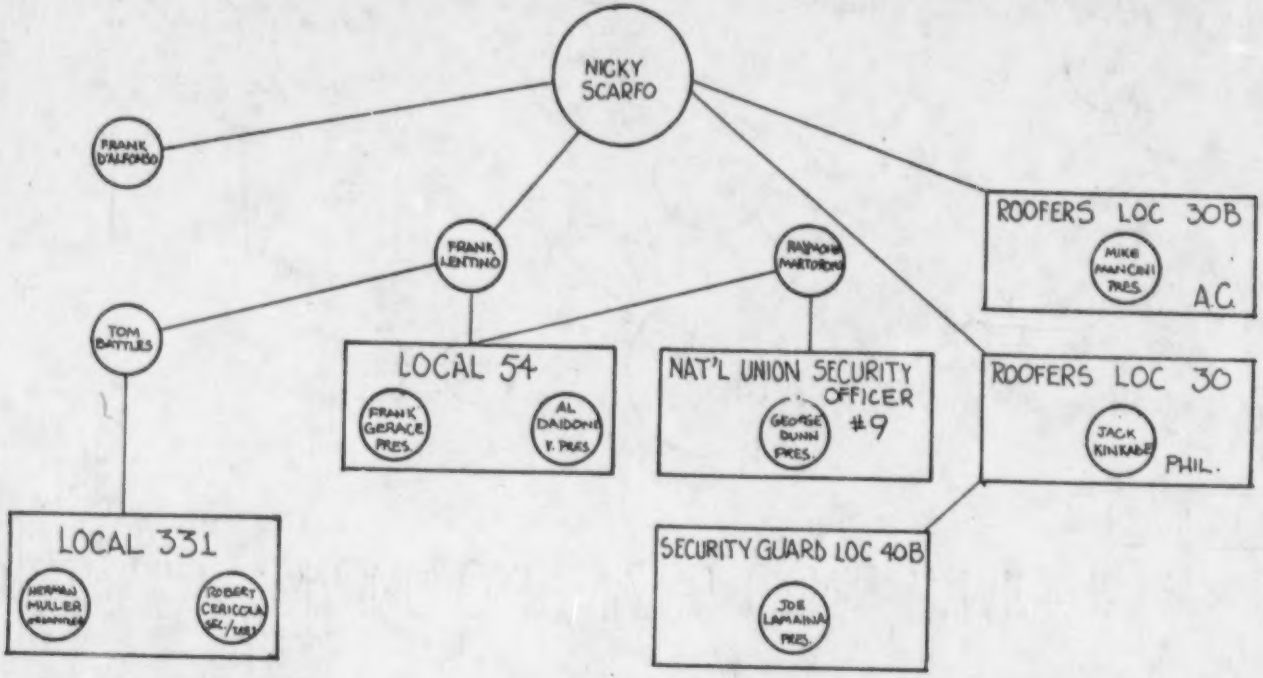
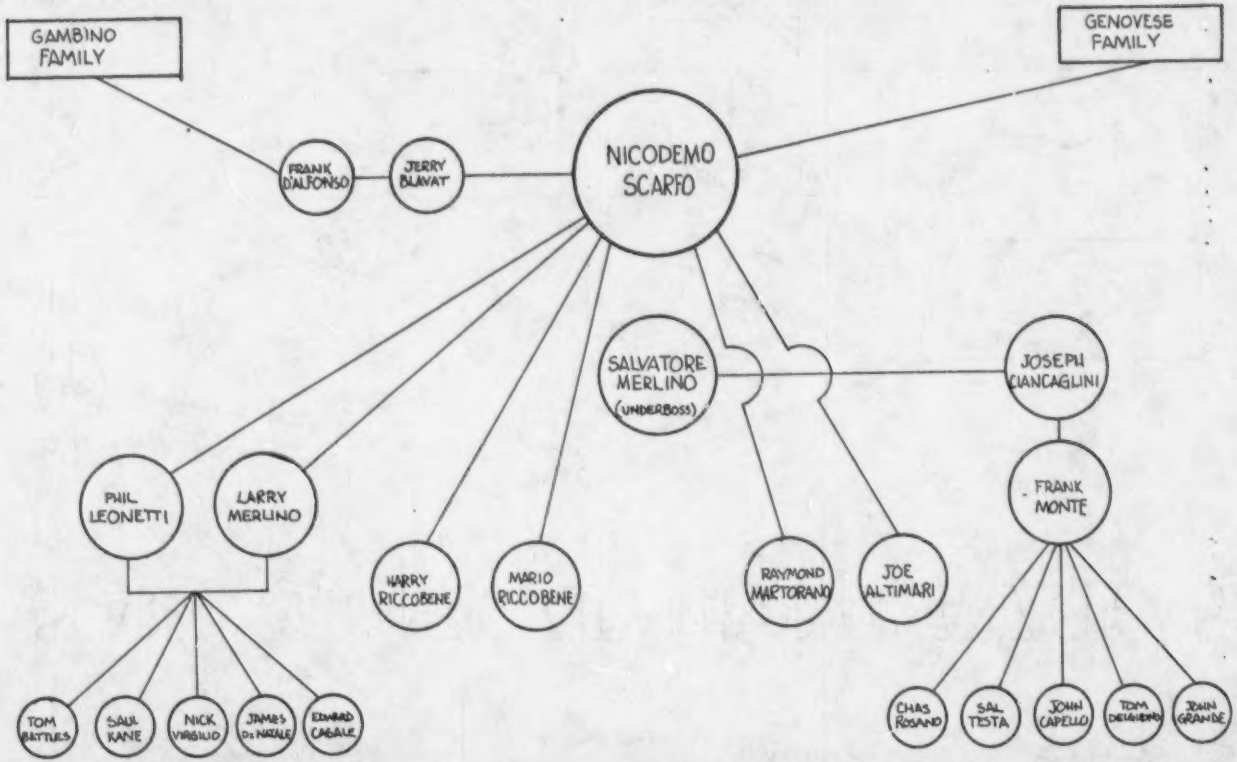


EXHIBIT NO. 3B

BRUNO ORGANIZED CRIME FAMILY



Mr. DINTINO. With respect to local 54 operations, Scarfo's ability to influence this particular union has been largely facilitated through his close personal relationship with Frank Gerace, president of local 54. Gerace, in turn, has employed several individuals with criminal backgrounds; for example, Robert Lumio, the former secretary-treasurer, had been convicted on Federal gambling charges in 1973; Frank Materio, a union organizer, was convicted in 1965 for failure to pay several Federal wagering tax stamps; Eliah Kirkland, a union organizer, was previously convicted of narcotics and gambling offenses between 1963 and 1976; and Karlos LaSane, a union grievance manager, was convicted in May 1973 of extortion and received a 4-year sentence.

[The criminal records of F. Materio, E. Kirkland, and K. LaSane follow:]

FOR THE

District of New Jersey

UNITED STATES OF AMERICA

v.

Frank Asterio

No. Cr. 270-65

On this 2nd day of December, 1965, came the attorney for the government and the defendant appeared in person, and' by counsel

IT IS ADJUDGED that the defendant has been convicted upon his plea of' Guilty

of the offense of Failure to pay special occupational tax (Title 26, U.S.C., Sects. 4411 & 7262)

as charged' in Count 1

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that' on Count 1 - the defendant do pay a Fine of $1000.00 and, It is Further Ordered that the payment of said Fine be suspended. It is Further Ordered that the defendant be placed on Probation for a period of Five (5) years, without supervision.

It is Further Ordered that Counts 2 to 6, incl., be dismissed.

I hereby certify that the foregoing is a TRUE COPY of the original on file in my office.
ANGELO A. LOCASCIO, Clerk
Per Melvin Jacobs
Deputy

IT IS FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the court for a violation of the court's orders.

IT IS FURTHER ORDERED that the clerk deliver two certified copies of this judgment and order to the probation officer of this court, one of which shall be delivered to the defendant by the probation officer.

FILED

DEC 3 1965

AT 3 P.M.

Thomas M. Madden, Chief United States District Judge.

Clerk.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Narc Bu Wash DC	Eliah Kirkland #1 NJ 726	9-14-63	viol of Fed Narc Law	5 yrs prob
SO Mays Landing NJ	Eliah Kirkland #15649	9-14-63	viol of Narc Act	TOT Fed Auths
DSM Newark NJ	Eliah Kirkland, Jr. #2834	9-14-63	sale of narc	See Supplement
PD Atlantic City NJ	Eli Kirkland #27-752	10-11-63	A & B with fist	10-14-63 NG
USM Newark NJ	Eli Kirkland,Jr. #2834	2-7-64	selling narc drugs illegal	sent susp 5 yrs prob
PD Atlantic City NJ	Eli Kirkland #27-752	2-19-64	Narco Registration	
PD Atlantic NJ	Eli Kirkland #27-752	4-26-67	Poss Narc(Heroin)	5-7 yrs SPr & $1000 F 11-1-68
PD Hartford Conn	Eli Kirkland #45880-R-48	3-2-68	conspiracy	
St Jail Hartford Conn	Eli Kirkland #H-1137	3-2-68	obt Money by/ false/ pret	ADJ
SPr Trenton NJ	Eliah Kirkland #48220	[illegible]	GL	2-4 yrs c/c on chg of GL 5-7 c/c & $1,000 F on chg of poss narcs (2) See Supplement
PD Atlantic City NJ	Eliah Kirkland Jr 13604	Appl FP 8-5-54		
Air Force	Eliah Kirkland Jr AF-12374457	9-14-51		

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	2834 9-14-63 suspended (5) chg of Sell 200 Milligrams 48220 Paroled 8-8-72 Fine on chg of Poss Narcs(2)		yrs Probation on of Cocaine to be pd on Street .	
PD Atlantic City NJ	Eli Kirkland Jr SID 797339	2-27-75	Poss Lottery Para working for Lottery	1&2 Ind #991-74M 2-3 yrs SPr concurr ea other also to include add chgs 2A:121-1c (sale of lott on 2 cts & 2A:121-1c (Permitting lott on premises) 6-28-76 (W823415) custody status a.Recd #58365 SPr Recp ctr 7-30-76 b. Par SPr 9-20-77 2 to 3 yrs credit 33 Da
PD Atlantic City NJ	Eliah Kirkland 27 752 SID 797339	3-5-76	Perm lott on prem poss lott para work lott business	2 to 3 yrs Credit 54das

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
USM Newark NJ	Karlos Robert LaSane	5-18-72	conspiracy, bribery and extortion, aiding and abetting	sent 4 yrs custody of AG for Viol title 18 sect 195[illegible] amc 1952
Fed Det Hdqtrs New York NY	Karlos R. LaSane 80788158	5-1-74	Extortion a, [illegible]	
Fed Corr Inst Danbury Conn	Karlos R. LaSane 80788 158	5-6-74	Extortion	4 yrs
Allenwood FPC Montgomery Pa	Karlos R. Lasane 80788-158	FP 7-12-74	extortion	4 yrs 5/21/75 Par.

Description and Related Data:

Race: Black

Sex: Male

Height: 73 Inches

Weight: 190 Pounds

Hair: Black

Eyes: Brown

Date and Place of Birth: 9-14-32 NJ

Scars and Marks: Unknown

Address: (in 1974) Atlantic City NJ

Occupation: (in 1974) Commissioner of Parks & Public Property

Mr. DINTINO. In addition, Albert Diadone, vice president for local 54, is an admitted associate of several Bruno crime family members, including the now deceased Phil Testa. In January 1981, HEREIU General President E. Hanley approved the merger of locals 33 and 54 with local 54 maintaining its position as the principal local. Prior to the merger, Diadone served as vice president of local 33 and continued his union affiliation with local 54 as an organizer and business agent.

At the time of the merger between locals 33 and 54, Phil Testa had replaced Angelo Bruno as boss of the Bruno crime family. Diadone has stated in testimony before a New Jersey Commission of Investigation hearing in 1980 that he was an associate of Phil Testa and Raymond "Long John" Martorano as well as Angelo Bruno. Following the death of Robert Lumio in 1981, Diadone was appointed vice president of local 54 by Frank Gerace.

[The criminal records of R. Martorano and R. Lumio along with related court records follow:]

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
CSC	Iganzo Martorano	3-18-44		
CSC	Raymond A Martorano 203-NAVY-L	12-18-44		
CSC	Raymond A Martorano	1-27-45		
USCG	Raymond A Martorano 04602765	FP 2-14-45		
ATU Upper Darby PA	Raymond Martorano 2300/PaE-5063	2-9-51	Int Rev Laws	
USM Phila PA	Raymond A Martorano 11096	2-12-51	Alcohol Tax spirits	$500-Court
PD Phila PA	Raymond Martorano 242417	9-25-52		
PD Phila PA	Raymond Martorano 242417	2-14-53	idle & dis person	
PD Phila PA	Raymond Martorano 242417	9-30-54	unlaw sale & poss narc drugs	
PD Phila PA	Raymond Martorano 242417	5-19-55	unlaw sale & poss of narc (heroin)	

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Phila Co Pr Holmesburg Phila PA	Raymond C Mortorano E 6100	6-3-55	poss & sale of drugs	5 yrs
E C D & C C Phila PA	Raymond Anthony Mortarno E 5999	11-23-55	poss & sale of drugs	5 yrs flat paroled 12-3-58
FBI Phila PA	Ignazio Anthony Martorano	7-15-70	T 18 USC Sects 1952 & 371 Interstate gambling & consp	
	RAYMOND MARTOCANO	1-13-82	21 USC 846 (CONSP.) 841 (POSSESSION + DISTRIBUTION OF P2P METHAMPHETAMINE) 18 USC 2 (AIDING + ABETTING)	5/17/82 CONVICTED ON ALL CTS.

98-802 CC

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
PD Phila Pa	Robert J Lumio #353011	3-31-62	Illegal sales of liquor to minors	
PD Phila Pa	Robert J Lumio #353011	2-20-70	Fraudulent conversion MSC	
FBI Phila Pa	Robert J. Lumio 022818	11-16-73	Interstate transmission of wagering information-conspiracy	fined $1000 2 yrs prob for violation of [illegible] section 1952 & 371

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 73-648

ROBERT J. LUMIO :

O R D E R

AND NOW, to wit, this _____ day of _____,

1976, it is hereby ORDERED that the Defendant's Motion to Reduce Probation be DENIED.

BY THE COURT:

_____

J.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v. CRIMINAL NO. 73-648

ROBERT J. LUMIO :

FILED
FEB 24 1975
JOHN J. HARDING, Clerk
By ... Dep. Clerk

GOVERNMENT'S RESPONSE TO
DEFENDANT'S MOTION TO REDUCE PROBATION

NOW COMES the United States of America by its attorneys, ROBERT E. J. CURRAN, United States Attorney, Eastern District of Pennsylvania, JOEL M. FRIEDMAN and ALBERT J. WICKS, Special Attorneys, United States Department of Justice, in answer to Defendant LUMIO's Motion to Reduce Probation and avers as follows:

1. That on November 14, 1973, ROBERT J. LUMIO was indicted by a Federal Grand Jury in the Eastern District of Pennsylvania for conspiring to violate Title 18, United States Code, Section 1952 (Interstate Travel In Aid Of Racketeering) all in violation of Title 18, United States Code, Section 371.

2. That on April 23, 1974, this Honorable Court found defendant LUMIO guilty as charged in the indictment.

3. That on July 18, 1974, this Honorable Court sentenced defendant LUMIO to a suspended prison sentence of two (2) years with a fine of $1,000.00 and placed the defendant on probation for two (2) years.

4. That on December 13, 1974, the United States Court of Appeals, for the Third Circuit, affirmed the conviction.

5. That on March 24, 1975, the United States Supreme Court denied defendant LUMIO's Petition for Certiorari.

6. That the sentence imposed upon defendant LUMIO was a fair and legal sentence imposed in a legal manner under the laws and Constitution of the United States (Title 18, United States Code, Sections 371 and 4208).

7. That there have been no changes in the factors and circumstances relevant to the sentencing of defendant LUMIO which would warrant a reduction in the probationary period imposed.

WHEREFORE, the Government respectfully urges that defendant LUMIO's Motion to Reduce Probation be denied.

Respectfully submitted,

ROBERT E. J. CURRAN
United States Attorney
Eastern District of Pennsylvania

JOEL M. FRIEDMAN
Attorney in Charge
Philadelphia Strike Force

Albert J. Wicks

ALBERT J. WICKS
Special Attorney
Philadelphia Strike Force

Mr. DINTINO. My conclusion that Scarfo has tremendous influence on the operation of local 54 comes from the development of extensive intelligence. Following are two examples: The chart depicts Scarfo as the present boss, and Merlino, as the underboss, operating his illegal activities through Joseph Ciancaglini. Phil Leonetti and Larry Merlino operate the criminal activities in Atlantic City.

The chart also depicts alliances with both the Gambino and Genovese criminal groups.

Mr. Chairman, while this chart was prepared recently, it is outdated. On March 23, 1982, Frank Monte met a sudden death. Since we have been in Washington, D.C., I can't guarantee all the members on that chart are presently still alive. There has been a rapid turnover of charter members of the former Bruno crime family.

Now chart No. 2 indicates the influence that Scarfo has under a number of locals within the Atlantic City area. This chart has been compiled as a result of extensive intelligence including electronic surveillance and organized crime sources, and other investigative methods. It is to be pointed out the dominant union is local 54 in Atlantic City. The others are insignificant at this time due to lack of work and of membership.

In 1963, Scarfo's mother, Catherine Scarfo, purchased a boarding house at 26 N. Georgia Avenue in Atlantic City. For the past several years, Lillian Gerace, the mother of Frank Gerace, has resided at this address. Scarfo, himself, along with his wife and children, also live there. In December 1979, Scarfo was charged in the murder of Vincent Falcone earlier that month. On December 28, Frank Gerace withdrew $10,000 from a personal savings account which he deposited in his own checking account. On that same date, he wrote a check for $10,000 to his mother, Lillian, who in turn used these funds and an additional $10,000 to provide $20,000 toward Mr. Scarfo's bail. Incidentally, he was released on bail on December 28.

Additionally, at the time of Scarfo's arrest by the Atlantic County Prosecutor's Office on December 23, 1979, a telephone address book was seized from him. The telephone numbers contained therein were maintained in a simple code. When broken, the decoded number of an individual listed as Percy was found to be that of Frank Gerace. Another number, identified as that of Percy's girl, was the listed home number of Sue Holland. Holland, who admitted to a personal relationship with Gerace, is employed by the William Meyers Co., and is the administrator of the pension fund, as well as the health and welfare fund, for the international union. In May 1981, Frank Gerace was named a trustee for the international health and welfare fund.

Another example. We have received information from several sources that the rank-and-file members were concerned about the associations between their elected officials such as Frank Gerace and Albert Diadone concerning their association with organized crime figures such as Nicodemo E. Scarfo and Raymond "Long John" Martorano.

As a result, Scarfo advised them he wanted derogatory comments regarding Gerace and other officials of local 54 ceased. Subsequently on June 4, 1982, both Frank Gerace and Albert Diadone and other incumbent officials of local 54 were nominated without opposition.

98-802 O - 82 - 4

In August 1979, the international elected to charter and reestablish Atlantic City local 491 by divesting the bartenders from local 54. Thomas Kissick, the secretary-treasurer of local 54, was appointed acting president of local 491 by the international pending elections of officers.

Thereafter, Frank Gerace appointed Robert Lumio, a known associate of Scarfo and Bruno, and other organized crime figures, to the post of secretary-treasurer for local 54. Lumio, who had been convicted on Federal gambling charges in 1973, was formally elected secretary-treasurer of local 54 in November 1979. To assist Kissick at local 491, the international assigned two Philadelphia associates of Bruno's close friend, John McCullough, head of Roofers Local 30, as organizers. The two McCullough men, Thomas "Gooney" Walsh and Joseph Crosley, have FBI records.

[The criminal records of Thomas Walsh and Joseph Crosley follows:]

EXTRACT OF CRIMINAL RECORD

CITY OF PHILADELPHIA
POLICE DEPARTMENT

PHILA. NO. 308510
P.S.P. NO.
F.B.I. NO.

NAME: WALSH, Thomas
ALIASES:
DATE OF BIRTH: 9-17-30
ADDRESS: 2112 W. Venanago St.
2311 W. Atlantic St.
SEX: M
RACE: W

ARRESTED	CHARGE	DISPOSITION	JUDGE
1-29-49	RSG Larc Consp.	1 yr. prob.	
7-1-58	Cont.of crt.	$200 fine paid	Belloff
4-11-60	Fug. fr. just.	Dischg.	
4-17-61	Dk. Dis. Res. arrest	$2.50 fine	
7-30-62	Burg Larc RSG	Dischg,	
11-9-62	RSG Conspir.	Dischg.	Bleshman
4-30-65	Robb. BUrg Conspir.	Nolle prosse	Troutman
12-10-65	Burg Robb. RSG Conspir.	2½ to 10 yrs. (robbery) 1 to 10 yrs.Other bills	Greenberg
10-28-66	Robbery Burg. Larc RSG		

*Indicates Arrest Not Supported by Fingerprints in Files of Philadelphia Police Department

1 | 2 | 3 | 4 | 5

EXTRACT OF CRIMINAL RECORD

CITY OF PHILADELPHIA
POLICE DEPARTMENT

PHILA. NO. 223915
P.S.P. NO. 456 217
F.B.I. NO. 343 062 A

NAME: CROSLEY, Joseph
ALIASES:
DATE OF BIRTH: 8-31-30
ADDRESS: 3730 Earlham St. (9/14/61)
2002 W. Westmoreland St. (11/11/53)
SEX: M RACE: W

ARRESTED	CHARGE	DISPOSITION	JUDGE
11-11-53	Diss, Conduct Resisting Arrest Viol. MVC 1025-B, 1001A	$10.00 & Costs or 10 Days	Clark
9-14-61	Assault & Battery (Warrant)	Sent. Susp. 1 Yr. Prob. To Make Full Restitution	Ellick

*Indicates Arrest Not Supported by Fingerprints on Files of Philadelphia Police Department

PS-10 (Rev. 6-70)

1 2 3 4 5

Mr. DINTINO. At this juncture, McCullough and Scarfo, both Bruno operatives, controlled locals 401 and 54, respectively. In September, 1980, 6 months after Bruno's murder, the International arbitrarily dissolved local 491 and returned its members and assets to local 54. On December 16, 1980, McCullough was murdered.

Lumio, who was the secretary-treasurer of the reunited local and served in that capacity until his death by natural causes in June of 1981. It is important to note that just prior to Lumio's death, he was inducted into the La Cosa Nostra, and hence became a made member of Scarfo's organized crime family. While Gerace has tried to explain his relationship with Scarfo as a purely personal one, the evidence is to the contrary.

In conclusion, Mr. Chairman, I am absolutely convinced that Nicodemo Scarfo has significant influence over local 54 and has used it to his personal advantage. Moreover, Scarfo's continued relationship with local 54 through Frank Gerace and Albert Diadone is a matter of public concern that will continue to affect the integrity of the organized labor movement in Atlantic City, N.J. It shall remain a constant source of vigilance by both divisions of State Police and Gaming Enforcement.

I welcome the interest of this subcommittee in conducting these hearings which will fully expose the corrupting influences of local 54 and other locals.

Chairman ROTH. Thank you, colonel. Your testimony is very strong and persuasive. As I understand it, what you are saying is that Scarfo, the boss, the current boss of the Bruno——

Mr. DINTINO. Absolutely no question.

Chairman ROTH. And he has placed within local 54 members of his organization to control that union, is that correct?

Mr. DINTINO. Absolutely.

Chairman ROTH. They are not just people whom he indirectly controlled, but actually members of his organization?

Mr. DINTINO. They would not be there if he didn't want them there. He placed him there and they do his beckoning.

Chairman ROTH. Colonel, do you feel that the influence of this organization is growing, remaining static, or we are making some headway in controlling it?

Mr. DINTINO. You are talking about the Scarfo organization?

Chairman ROTH. The Scarfo organization with respect to the union.

Mr. DINTINO. With respect to the union?

Chairman ROTH. Yes, sir, local 54.

Mr. DINTINO. Let me put it this way, Mr. Chairman, we are maintaining constant vigilance over local 54 and the Scarfo organized crime family, and the gaming industry. The Division of Gaming Enforcement is doing the same thing and the FBI is doing the same thing, and one problem that we have is, the need for stronger labor laws—so that we could have more teeth into what we do. We are restricted to the criminal statutes at present, particularly in the State. I don't have any recommendations, I was not prepared to make any recommendations.

Chairman ROTH. I would certainly say if you have any recommendations at any time this subcommittee will welcome them.

Let me go back to some of your testimony.

You said that McCullough had controlled local 491 and Scarfo controlled local 54. It is a fact that within 6 months of Bruno's death these two locals were abruptly remerged by the international.

Do you see any connection between Bruno's death and the remergers?

Mr. DINTINO. Yes. After Bruno's death, Testa took over as boss of the Bruno family. McCullough was a Bruno associate. Testa did not like McCullough, and he remerged so he could take control of that union. McCullough was no longer the force controlling labor unions in Atlantic City.

Chairman ROTH. Do you have any additional facts which would add credence to the contention that Nicky Scarfo exerted influence to appoint the late Robert Lumio as secretary-treasurer of the local?

Mr. DINTINO. Lumio was initially appointed to local 54 in 1969. He was employed as a bartender. He has long been a confident and close associate of Scarfo. Knowing Scarfo's current bail restriction to Atlantic County, Saul Cain an associate of Lumio, was known to be attending Philadelphia meetings on Scarfo's behalf.

Chairman ROTH. Did your investigation develop any evidence in support of your statement that Frank Gerace supplied bail money directly to Scarfo?

Mr. DINTINO. Yes, Frank Materio, an organizer for local 54, put up his property, which was valued at $75,000. There was other property put up, the bail was $92,000, and to further go along, Frank Gerace supplied bail money indirectly to Scarfo.

On December 28, 1979, Gerace transferred $10,000 fom his savings account, No. 4–14537 to his checking account No. 107–145–5. This was done by utilizing credit memo No. 702020, and we have an attached copy and we are prepared to give the subcommittee copies of these transactions.

On the same date, Frank Gerace issued a check for $10,000 to Lillian Gerace from his checking account, and we have an attached copy of that.

Lillian Gerace then on the same date, December 28, obtained treasurer's checks No. 073, 832, which is made payable to Catherine Scarfo, and it is to be noted Scarfo was released on bail December 28, 1979.

I can give you a further breakdown as far as the bail money. On December 28, the Torri Construction placed $45,000 cash bail controlled by an organized crime associate of Scarfo.

Scarf, Inc., which is controlled by Phil Leonetti, his nephew and a close confident, placed $20,000 cash bail. Lillian Gerace, which would be Frank Gerace's mother, put up $20,000 cash bail, and Catherine Scarfo put up $7,000 cash bail. That is on December 28.

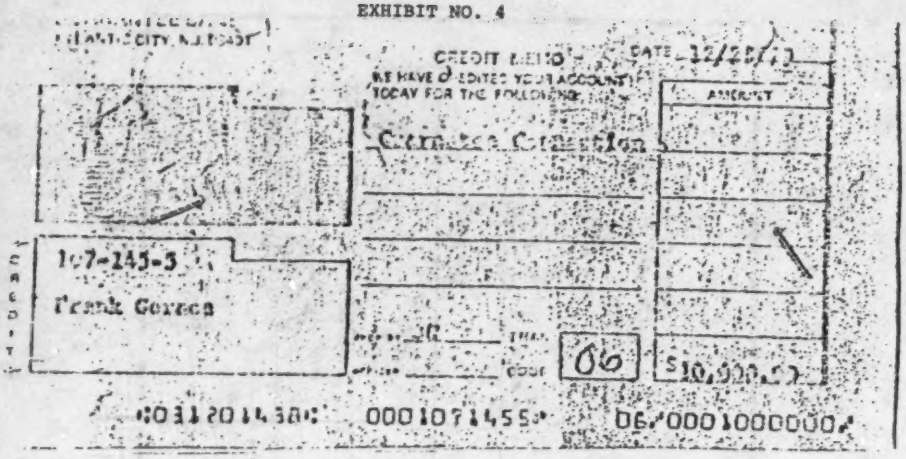
Now to clarify this, somewhere around January 16 is when Frank Materio put up his property and another individual did the same and they were able to get their cash bail back.

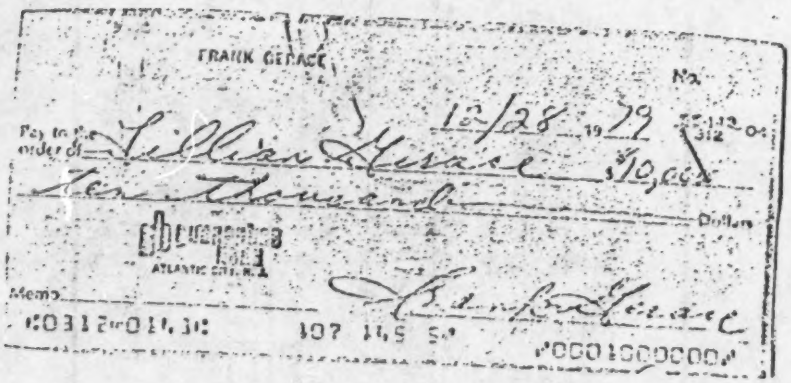
Mr. WEILAND. Mr. Chairman, before we go on, could we have offered into the record at that point, a photocopy of the checks and deposit slips he has been testifying from?

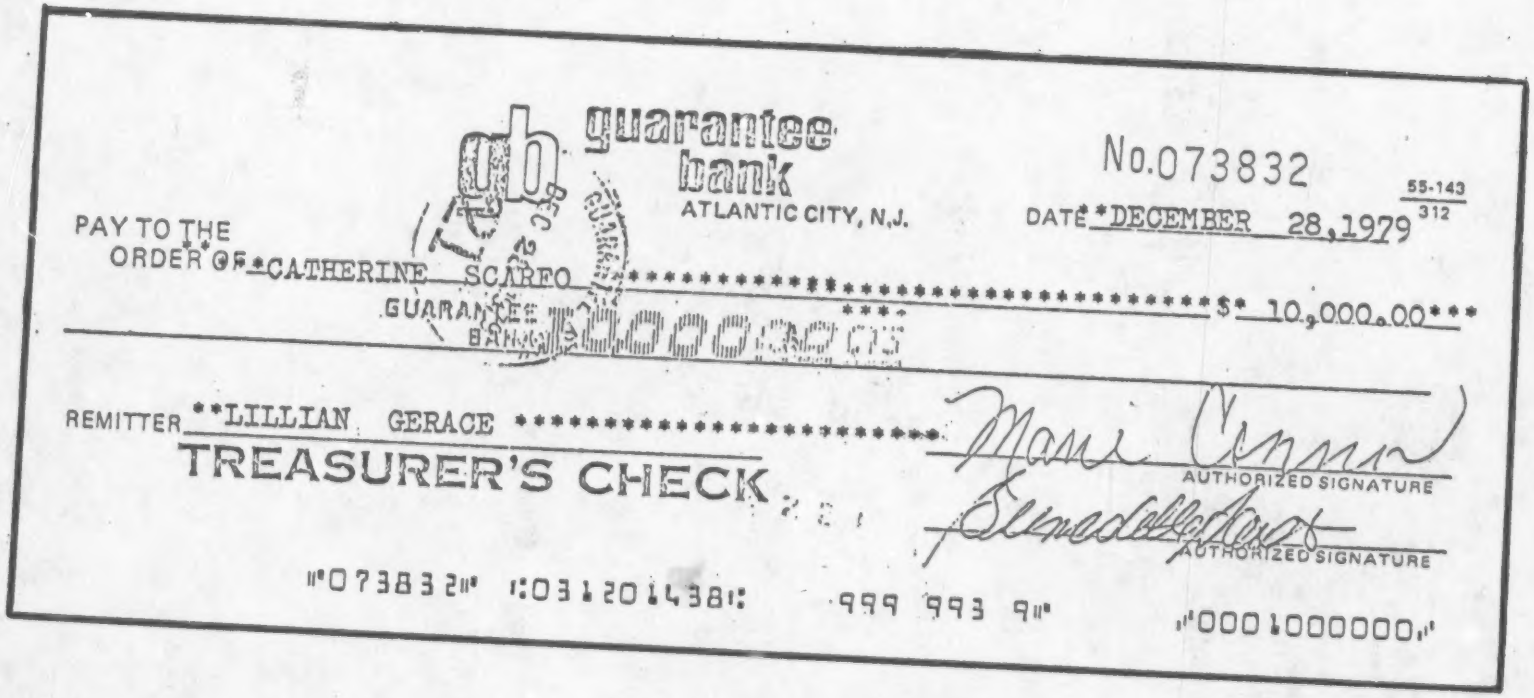
Chairman ROTH. Without objection.

[The material referred to was marked as "Exhibit No. 4," for reference, and follows:]

EXHIBIT NO. 4


ATLANTIC CITY, N.J. 08401
CREDIT MEMO
DATE 12/28/79
WE HAVE CREDITED YOUR ACCOUNT TODAY FOR THE FOLLOWING:
AMOUNT
Commission Correction
107-145-3
Frank Gerace
CODE
06
$10,000.00
:031201438: 000107145 5: 06 0001000000


FRANK GERACE
No.
12/28 19 79
Pay to the order of Lillian Hurase
$10,000
Ten Thousand
Dollars
Memo
Frank Gerace
:031201438: 107 145 5: 0001000000



guarantee bank
ATLANTIC CITY, N.J.

No.073832

55-143
312

DATE *DECEMBER 28,1979

PAY TO THE ORDER OF **CATHERINE SCAREO ********** $** 10,000.00***

GUARANTEE BANK

REMITTER **LILLIAN GERACE **********

TREASURER'S CHECK

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

"073832" :031201438: 999 993 9" "0001000000"

04-0-107-145-5

FRANK GERACE
904 OAK AVE
LINWOOD NJ 08221

01/21/80

PAGE- 1

12/19/79

CHECKS AND OTHER DEBITS		DEPOSITS AND OTHER CREDITS	DATE	BALANCE
				579.00
421.90			12/20	157.10
		100.00	12/21	257.10
		200.00	12/27	457.10
10,000.00		10,000.00	12/28	457.10
100.00			1/08	357.10
.00			1/21	357.10
BALANCE LAST STATEMENT	TOTAL CHECKS AND OTHER CREDITS			
579.00	10,521.90	10,300.00		

Chairman ROTH. I believe this is relevant to our inquiry. Of course, we are very much interested in determining whether the officials of the unions used their position improperly in violation of a Federal law.

Were there any other officials of local 54 in addition to Frank Gerace, who were involved in raising bail for Scarfo?

Mr. DINTINO. Frank Materio put up his property—and Frank Gerace. No one else.

Chairman ROTH. Do you have any other recent examples of Scarfo's influence on this union?

Mr. DINTINO. We certainly do, but at this juncture we are not at liberty to discuss them, because some are under pending investigation, and one is under trial at the present time.

Chairman ROTH. Senator Nunn?

Senator NUNN. Thank you, Mr. Chairman.

First, Colonel, I want to thank you and your whole organization as well as Colonel Pagano. He is the head of the whole unit?

Mr. DINTINO. Yes, sir.

Senator NUNN. We want to thank you for your help in this investigation and not only that, but your spirit of cooperation with this subcommittee for a long time. Yours is one of the most competent units in the world, and I want to thank you for all the past effort and for your present cooperation.

Mr. DINTINO. I thank you for your kind remarks. They are greatly appreciated, Senator.

Senator NUNN. In looking at this problem of labor being influenced, some locals and some internationals have been influenced by organized crime, I know you probably have had an adult lifetime of looking into this area. How do you rate the problems of organized crime influence in the labor movement now, let's say, compared to 10 years or whatever interval you think is important?

Mr. DINTINO. Let me answer that this way.

In New Jersey, at the present time, we have approximately 1,675 locals, that is a ballpark figure, but it is very close. We have been able to establish that 76 of those levels are influenced by organized crime which comes to something like 4.7 percent.

So, basically, we want to make it clear that over 95 percent of the locals in New Jersey are honest, dedicated, working for their employees.

I have been in the State police close to 30 years, involved in intelligence for 15 years, and if you traced local 54 from the time I came into intelligence in 1967, organized crime controlled it then; it controlled it then under Joe McGreal, and they killed him when he came out of jail. Natale then took it over.

Most of the locals you see on the waterfront or Teamsters, have been under their domain for years. It seems like they took them over in the 1930's and once they get a hold of something they won't let go.

I don't see them intruding into new locals, so to speak, and when you talk about local 54, they were always involved in 54. Local 54 was a subsidiary of 170.

Senator NUNN. Are you saying the problem is not getting worse, it is just not getting better, or how do we stand?

Are we pretty much at the same place we were 10 years ago?

Mr. DINTINO. I would say yes, it is about the same. It is probably in a holding pattern.

Senator NUNN. Are the law enforcement agencies better equipped now to cope with this problem than they were a decade ago?

Mr. DINTINO. Absolutely. the grand jury, State grand jury, electronic devices. In fact I think in our State, I know since 1969 we came in with these tools I just mentioned, and we did a survey because we have to justify electronic surveillance every 5 years, and prior to 1969, we didn't make one arrest of an organized crime member.

After 1969, it was something like 58 we arrested during a 5-year period.

Senator NUNN. Would that be your No. 1 tool in dealing with this organized crime problem, electronic surveillance?

Mr. DINTINO. I would say yes. If you were able to place a bug in a good location, it is very productive.

Senator NUNN. Mr. Nelson testified before you, and I quote him, "For the first time in any of our lives, we have seen the Cosa Nostra substantially being damaged by law enforcement."

Do you agree with that assessment?

Mr. DINTINO. Could you repeat that?

Senator NUNN. For the first time in any of our lives, we have seen the Cosa Nostra, in many parts of the country, being substantially damaged by law enforcement agencies.

Mr. DINTINO. I would agree with that statement; yes. Again I refer to New Jersey, and I know in the past 10 years we have had at least 50 major organized crime figures depart from our State because of the pressure that has been exerted on them from all levels of law enforcement.

Not to say it has corrected the situation, but they just went somewhere else where there is less pressure. They are going to choose their own battleground.

Now I see the same thing in Atlantic City. I think everyone thinks organized crime is carrying Atlantic City away. I don't agree with that at this point.

But what it has taken, it has taken tremendous resources to keep them under control, and the minute we relax that, I think they would come in like a swarm of locusts or a herd of buffalo.

They are there. I am not saying they are not there, and they have increased their activity. but I feel we have them under control.

Senator NUNN. How do you rate the FBI's ability to cope with organized crime compared to some 10 years ago? Do you think they have improved?

Mr. DINTINO. Absolutely.

Senator NUNN. How about the cooperation you get from the FBI?

Mr. DINTINO. Could not be better.

Senator NUNN. What about the U.S. Labor Department?

Mr. DINTINO. We cooperate with the U.S. Labor Department 100 percent, and we get along with them very well. We are involved in strike force with them in New Jersey, and we are successful in making some labor cases.

Senator NUNN. What about the Internal Revenue Service compared to 10 years ago?

Mr. DINTINO. I would have to admit we have had no dealing with the IRS in the last several years, since they changed the law.

I used to see them on a daily basis and gave them many leads and I know they made cases as a result of those leads.

Now, I don't see them asking for any intelligence.

Senator NUNN. Is that since the passage of the 1976 tax reform?

Mr. DINTINO. Yes.

Senator NUNN. If you had to list areas of the Federal labor that you think are most in need of improvement, what would you list?

Mr. DINTINO. I think the stronger labor statutes have to be enacted. I think possibly IRS has to come back into the fight and use their resources which are very important because of their ability to audit a tax return and establish cash flow and financial statements.

Senator NUNN. Would you agree with the findings of our subcommittee for several years now that IRS is potentially one of the most effective law enforcement agencies against organized crime and labor racketeering?

Mr. DINTINO. Did you say effective?

Senator NUNN. Potentially one of the most effective?

Mr. DINTINO. Yes.

Senator NUNN. Have you had a chance to take a look at the labor racketeering bill that several of us on this subcommittee are coauthors of, which would require a union official to give up their office after conviction prior to appeal?

Mr. DINTINO. I have not had the opportunity to look it over, but I am sure if you gentlemen have submitted it I would agree with it.

Senator NUNN. Do you have that problem in New Jersey where people are convicted now holding union office, and remain in the union as later?

Mr. DINTINO. Yes.

Senator NUNN. What is the effect of a labor union leader whose convicted to ties with organized crime and then that particular leader is out on appeal for several years and remains in union office?

Is that a problem and what is the effect of that?

Mr. DINTINO. Well, I think it intimidates the union membership. Like I stated in my prepared statement, one of the examples I used was Scarfo put out the word he wanted no opposition to Gerace. And this was carried out. We know there were other candidates interested in the job. They never came forth.

In other words, their intimidation was such that the membership is apprehensive of even becoming involved, of making a complaint because they are very quick to commit homicide or assault. They are very violence prone to gain their objective.

Senator NUNN. One other question:

You mentioned about 95 percent of the locals in New Jersey in your opinion are people who are performing their functions honorably as labor union leaders and really representing their labor union, and at least five are suspected to ties with organized crime?

Mr. DINTINO. Yes.

Senator NUNN. Are there different characteristics of the distinctions between these type unions, between the 95 percent and the 5 percent that are worthy of note?

In other words, why are certain locals obviously more susceptible to control by organized crime, both historically and now?

Mr. DINTINO. I would say the difference is that organized crime seems to be attracted to locals which present the most potential for them to make money. Obviously the casino industry, if they can organize the people within that industry, the power they would have over the casino industry who are paying as much as $240,000 a day interest on the loan that they borrowed to build the casino, is significant.

They cannot afford a stoppage. They can make sweetheart contracts—I am not saying this happens, I am speculating—where they place key personnel in key positions.

In other words, they go where they have the opportunity to make the most money.

Senator NUNN. And also you are saying that they have the opportunity to make the most money and, in the event there was a strike, they would have a devastating effect on that particular industry, even for a short term.

Mr. DINTINO. Yes.

Senator NUNN. Is that historically true; is that something that goes back 20 or 30 years?

Mr. DINTINO. Yes, sir.

Senator NUNN. And the waterfront problem would be another example. If you closed down the docks, you have staggering losses.

Mr. DINTINO. Yes, sir.

Senator NUNN. Any other distinguishing features between successful locals and what we call honorable locals?

Mr. DINTINO. Well, they seem to go after locals that do cash business, like bars and casinos and vending machines. They like to deal in cash. I believe not only can they make money from operating a local in that business, but it is another form of cheating the Government out of their due taxes.

Senator NUNN. That is why IRS can play a major role here.

Mr. DINTINO. Yes, in fact, I believe—I could be mistaken—but I don't believe Scarfo ever submitted an IRS return. He lists his employment as unemployed.

Senator NUNN. So an income test-type investigation by the IRS——

Mr. DINTINO. Net worth audit.

Senator NUNN. Would you say that dealing in cash, Colonel, is one of the distinguishing features of this particular union we are focusing on in these hearings, restaurant hotel workers?

Mr. DINTINO. Yes, and maybe another factor I should point out here. These are ball park figures, and they are higher now, right now. But we are speaking about local 54 now. The severance fund, the employer pays 5 cents per person per hour, times 12,000 employees, it comes out to $1.248 million.

I did this mathematically and it is accurate. I did this this morning at breakfast.

Senator NUNN. $1.248 per what?

Mr. DINTINO. Per year: Pension 10 cents per person per hour times $12,000 comes to $2,496,000.

Health and welfare, 52 cents per person per hour, times 12,000 employees per year comes to $12,972,000.

Union dues, $8 per month on the average, some pay more, some pay less—but the figure I came up with was $1,354,000.

So if you total them, I can see that it comes to $16 or $17 million, and just health and welfare funds and union dues, besides what they can do with the casinos or whatever the industry is they organize.

Now, who is administering these funds? You have in reality organized crime administering these funds, who you could not trust with a nickel.

Senator NUNN. So the people in jeopardy are certainly including the union members themselves when this kind of situation exists?

Mr. DINTINO. Yes.

Senator NUNN. Their funds, their pension, their future, their security is all in jeopardy when organized crime is involved?

Mr. DINTINO. Certainly.

Senator NUNN. Thank you.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Just a few questions here.

First, let me say I have extensive personal dealings with New Jersey, and it is a first-rate organization in the country, and we are very grateful for your testimony this morning.

I wonder, before you leave, if either yourself or Captain Sullivan with you or Mr. Lyons, if you might give us more detail to that chart on the right because it is a very powerful piece of evidence, if you could just amplify it briefly for us?

Mr. DINTINO. Mike Lyons, my labor expert, could do that.

Mr. LYONS. Basically, what we have seen in the past few years in Atlantic City is influence exerted by organized crime figures on certain locals in Atlantic City. This data is a result of surveillances, informative information, electronic surveillance, and basically, what the chart shows is influence.

We have the names of the officials in the unions, not necessarily bad in the sense of they are the criminal, they are the head of the union, and the influence exerted on that union is Nicodemo Scarfo.

Senator RUDMAN. That is the compelling part of the evidence, that regardless of the particular status and reputation of these individual union heads, there is a link which has been sustained by evidence gathered both by the New Jersey State Police and New Jersey attorney general, FBI, Strike Force, that corroborates those ties. This is not a suspicion or a surmise; those ties exist?

Mr. DINTINO. Yes, sir.

Senator RUDMAN. Colonel Dintino, you discussed testimony of FBI witnesses this morning and had a dialog with Senator Nunn. Ninety-five percent of the people in your State were essentially run straight by legitimate people.

I expect we all agree with that.

Would you not say, however, the problem we all face in jurisdictions with this type of problem is that because of what I might refer to as the unique selling methods of this particular kind of people, their chance of moving into other areas and coercing other unions and other businesses to come under their influences is very great?

Mr. DINTINO. Absolutely.

And, sir, if I might, I would like to go back to that chart and clarify a point I thought I made earlier.

Now, in looking over that chart, it shows Nicky Scarfo with ties to a number of unions, but I point out his greatest influence is with respect to local 54.

We justified associations with the other locals. We don't say he controls the other locals.

Mainly it is because he is probably not all that interested in them because they are insignificant.

I want to make that point clear.

Senator RUDMAN. Yes, I suspect that is true, but I have read the last 5 or 6 months' clips from the Philadelphia-New Jersey papers about what is going on down there, and I dare say if I were a legitimate union officer of one of those locals and some of these folks came and said we want to talk with you, I would be willing to talk or take the first plane to California.

Is that an accurate statement of coercion down there?

Mr. DINTINO. I would say yes. I would say if they want a particular union, they would go after it and probably obtain it.

Senator RUDMAN. So Senator Nunn's examination is that we have a very serious problem in dealing with legislation or whatever level we can deal with, and obviously, you have things to do at State level and things we might do here at the Federal level.

I want to thank you for your testimony. At the time New Jersey was having its fight for casino gambling, we had the same fight in New Hampshire. Fortunately, we won. I assume New Jersey State Police welcome gambling as well as the captain of the *Titanic* would have welcomed more icebergs.

I think you have a terrible, terrible situation down there and I hope you have enough resources to deal with it.

Mr. DINTINO. We took the position that we were going to get as much involved as we could to control the industry or try to control organized crime from infiltrating the industry.

Senator RUDMAN. I think you have done a good job. I just think you are fighting against tough odds. In homicides, beatings, and coercion in that area, you have a full-time job.

Mr. DINTINO. Well, maybe you might look on the good side that we are doing a good job.

Senator RUDMAN. I think you are.

Thank you.

Chairman ROTH. Just one or two more questions, Colonel Dintino.

I gather from what you have testified that the pattern is that once the organized family takes over any union, we never see them letting go, and that is primarily because of coercion and intimidation?

Mr. DINTINO. Yes; I have never seen one that came back to legitimacy again. You can look at 560, Tony Pro, he goes away to jail; he puts his brother and daughter in to run the union. There is a history of that throughout the country.

Chairman ROTH. Is there anything—Senators Nunn and Rudman talked about other proposals—is there anything additional we can do to attack this problem?

Mr. DINTINO. Well, I think you are doing it with these hearings and you are going about it in the right way in looking at the locals

and international. You will analyze the testimony brought before you and I am sure you are going to enact some kind of labor legislation that will be useful to us.

Like I say, I didn't come here prepared for any recommendations in that area. I respectfully pass that to your wisdom, because I think you are better qualified in that area.

Chairman ROTH. I want to thank you and the two gentlemen that came with you for your very persuasive and helpful testimony, and we may want to call on you further down the road.

Thank you, very much.

At this time, the subcommittee will hear from the two protected witnesses. Because of their status, certain security measures are required by the marshal's service, so at this time we will direct that the hearing room be cleared while the witnesses enter and leave the room.

These protected witnesses will be required to testify behind the screen, and I would point out that no picture may be taken of the witnesses other than behind the screen, and there should be no attempts to photograph the witnesses outside the hearing room.

We will now clear the room very briefly and resume as quickly as possible with their testimony.

[Brief recess.]

EXCERPT: TESTIMONY OF CHARLES ALLEN AND JOSEPH SALERNO, PROTECTED WITNESSES

[Members present after the taking of a brief recess: Senators Roth, Cohen and Nunn.]

Chairman ROTH. The subcommittee will be in order.

As I pointed out earlier, both of the next witnesses are under the protection of the Federal witness security program.

The first witness, Charles Allen, has been cooperating with the Federal Bureau of Investigation since 1978. He entered the witness security program in 1979. As a Federal witness, he has testified in nine trials, which have resulted in the conviction of 18 individuals for offenses involving narcotics, trafficking, racketeering, bribery, arson, and perjury in connection with a Labor Management Disclosure Act violation.

The testimony Mr. Allen will give today comes as a result of 10 years of direct involvement with individuals such as Angelo Bruno, Phil Testa, Ralph Natale, Russell Bufalino, and Anthony Provenzano.

The second witness, Joseph Salerno, is required to be here today in response to a subcommittee subpena. He is 37 years old, and prior to his entry into the witness security program in 1980, he was a licensed master plumber in Brigantine, N.J.

Mr. Salerno will testify regarding his relationship with Nicodemo Scarfo and other organized crime figures, and with two officers of local 54, Frank Gerace, the current president, and the former secretary-treasurer, Robert Lumio, now deceased.

At this time, I will call on the chief counsel for this subcommittee, Mr. Weiland, to proceed.

You gentlemen may stay seated. You will have to be sworn in as witnesses.

Raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ALLEN. Yes, sir.

Mr. SALERNO. Yes, sir.

Chairman ROTH. Mr. Allen, I understand you have a prepared statement you would like to submit for the record as if read; is that right?

Mr. ALLEN. Yes, sir.[1]

Chairman ROTH. Without objection.

Mr. WEILAND. I want to start Mr. Allen, if I may, after reviewing your statement.

You identify several organized crime figures as associates of yours during the time you, yourself, were involved in criminal activity. And these people would include Angelo Bruno, Phil Testa, Ralth Natale, Russell Bufalino, and Anthony Provenzano.

I would like to talk, first, about Bufalino and Provenzano.

Would you explain for us your involvement with those two individuals?

Mr. ALLEN. I worked for both of them actually.

Mr. Bufalino and Mr. Provenzano, while I was in prison and more or less took care of him there as a bodyguard, and became very close to him.

Mr. WEILAND. Where was that, at Lewisburg?

Mr. ALLEN. At Lewisburg Federal Penitentiary.

Mr. WEILAND. How about Mr. Bufalino?

Mr. ALLEN. Mr. Bufalino, I was working for him through Jimmy Hoffa and Frank Sheerhan, and I got to be very close with Mr. Bufalino.

Mr. WEILAND. Was this in Philadelphia, New Jersey, Delaware area?

Mr. ALLEN. Yes, it was.

Mr. WEILAND. What about your association with Testa and Natale? Could you tell us about that in general?

Mr. ALLEN. I worked for Ralph Natale and through Ralph I got to be very good friends with Phil Testa.

Mr. WEILAND. How long did you work with Natale?

Mr. ALLEN. A good 10 years.

Mr. WEILAND. We understand that local 170 eventually merged into local 54.

Was Ralph Natale the head of local 170 during the time you were associated with him?

Mr. ALLEN. Yes, he was.

Mr. WEILAND. Mr. Allen, your statement also includes the fact that Natale replaced a man by the name of Andy Chalako when Chalako and Joey McGreal went to jail; is that correct?

Mr. ALLEN. That is correct, yes, they went to jail for extortions.

Mr. WEILAND. In 1973, following McGreal's release from prison, we understand he was shot and killed?

Mr. ALLEN. Yes, he was.

Mr. WEILAND. Please tell us why Chalako and McGreal were sent to prison and how McGreal was killed?

[1] See p. 174 for the prepared statement of Charles Allen.

Mr. ALLEN. Joey McGreal and Andy Chalako were shaking down a restaurant in Cherry Hill, N.J. Finally they were caught and went to prison. Before going to prison, Joey McGreal put Ralph Natale in charge of the local, and with the understanding that when Joey came out of prison, he would still run everything.

Mr. WEILAND. Was Natale involved in those shakedowns during that time?

Mr. ALLEN. I honestly could not say. I imagine so.

Mr. WEILAND. What about the killing of McGreal? What do you know about that?

Mr. ALLEN. About a week before Joey got killed, I had heard that Joey was going to be killed because of him trying to take over the Cherry Hill area again.

During that time, I was in good with the Mafia down in Philadelphia, and I was not allowed to tell Joey that he would be killed, though he was a close friend of mine. But, actually, Angelo Bruno told Joey McGreal to stay out of Cherry Hill, and Joey wanted to kill Angelo and a few other people.

They had a meeting about this and Ralph Natale and Franny McDonald were told to kill Joey McGreal, which they did.

Mr. WEILAND. Did they take McGreal's threat to kill Bruno seriously?

Mr. ALLEN. They certainly did. Joey was nobody to play with.

Mr. WEILAND. And by that time Natale was in control of 170; is that right?

Mr. ALLEN. He was in control of all Cherry Hill, yes.

Mr. WEILAND. Your statement describes a meeting involving Bruno, Scarfo and Natale and others at the Centanni Restaurant in South Philadelphia sometime in 1977.

Do you remember that description and that meeting?

Mr. ALLEN. Yes, I do.

Mr. WEILAND. In reviewing your statement, the meeting seems to demonstrate clearly how control by organized crime is implemented.

Would you discuss the statement and elaborate, the meeting, I mean, and elaborate for us?

Mr. ALLEN. Yes. We were told go down to the Centanni Restaurant, and they was going to have a meeting there. Ralph didn't like the way things looked, and he told me and Franny to go before him and bring guns, because little Nicky would be there.

Mr. WEILAND. Who is little Nicky?

Mr. ALLEN. Nicodemo Scarfo.

Nicky was making waves for Ralph in Atlantic City, stepping on his toes, going into his territory, and Ralph did not like that, and that is what the meeting was about. We went to the restaurant and checked everything out.

Finally, Ralph came, Angelo and all the big shots were there, and after a while Nicky Scarfo came in. We sat down at different tables, but I could hear what was going on most of the time.

Angelo Bruno told Ralph Natale that he was putting little Nicky in Atlantic City to do certain things but little Nicky would not interfere with any of his restaurants and bars. Angelo also told Ralph how much money he made down there, and that little Nicky had certain things to do down there and he didn't want Ralph interfering and

Ralph agreed with that after Angelo told him how much money would be made down there.

Mr. WEILAND. What kinds of things would Nicky have under his control?

Mr. ALLEN. Mostly loan sharking, gambling, drugs, whatever, you know, anything except the bartenders' and waiters' union.

Mr. WEILAND. Did Natale agree to that arrangement?

Mr. ALLEN. When he found out how much money would be made, yes, he did.

Mr. WEILAND. During the time that you worked with Natale, did you meet with Angelo Bruno regularly?

Mr. ALLEN. At least once a week, sometimes twice or three times.

Senator NUNN. Could I ask a question here on how much money was being made?

Mr. ALLEN. On what, Senator?

Senator NUNN. You kept mentioning once he found out how much money was being made——

Mr. ALLEN. How much money was going to be made, Senator.

See, what they did, they had a meeting before that, Bruno had his men there, and each member had to put up $500,000 for Atlantic City. And they were going to take over all the bar supplies; they would supply them, all the linen supplies to the hotels; all the vending machines, and four or five other things; all the meats going into the hotel, and groceries and things like that. That is what they did.

And in order for the hotels and restaurants to have a good relationship with the union, they would have to buy off us, or them, I should say now, and that is how it was going.

Senator NUNN. Did they ever mention a figure of how much money they expected to make?

Mr. ALLEN. Nobody knew the figure, but it had to be a hell of a lot, because everybody put up $500,000 apiece.

Senator NUNN. Thank you.

Mr. WEILAND. Were there regular meetings between Bruno and Natale?

Mr. ALLEN. Yes, at least once a week, sometimes three times a week.

Mr. WEILAND. What was the purpose of those meetings, to your knowledge?

Mr. ALLEN. Different things would come up, different problems. See, loan shark business was good, and what they would try to do is try to get weak people in business, and try to get them to gamble or try to get them into a hole to borrow money and keep that man in the palm of their hand and squeeze them.

Now, if he needed money or lost money, the way they had it set up, a sucker could not win. Because they had men with cards they could deal you any hand you wanted. They had dice to do tricks.

If you borrowed money, you could not pay it back. And they would try to take these kinds of businesses over.

Mr. WEILAND. What about union business? Was that discussed in these Bruno-Natale meetings?

Mr. ALLEN. Yes, when problems came up, yes.

Mr. WEILAND. According to your statement, Mr. Allen, by October 1978 you were cooperating with the FBI in Philadelphia and were in fact reporting all conversations to them; is that right?

Mr. ALLEN. Yes, I was, yes.

Mr. WEILAND. In other words, by that time, the FBI was actually directing your activities?

Mr. ALLEN. Yes, they were.

Mr. WEILAND. Tell us about a series of conversations you had with Ralph Natale in October 1978 regarding a request by him for firearms with silencers as best you can recall?

Mr. ALLEN. Like I just said, everybody had to put up $500,000. There was a split, in the family there, Angelo Bruno, Ralph Natale, and myself on one side with other people; and Andy Chalako and Phil Testa was on the other side with their people. And Angelo was not going to give them their split from Atlantic City because of the argument.

Angelo figured that we would kill them, and he called us down and asked for our allegiance, which we gave him, and he told Ralph he needed 22's with silencers to kill these people.

Mr. WEILAND. How many was he looking for?

Mr. ALLEN. How many silencers?

Mr. WEILAND. How many guns?

Mr. ALLEN. Ten guns. They had the silencers already.

Mr. WEILAND. This was in 1978 now, and the gang killings did not begin until Bruno's death in 1980.

Did you have any idea in 1978 who would be involved in this war?

Mr. ALLEN. Yes. What happened there, nobody knew exactly what was going on until the tapes I made came out: when the defense attorneys requested these tapes, then they found out they were going to be killed, and that is when Angelo and them got killed.

Mr. WEILAND. Mr. Allen, were you present at certain meetings between hotel worker general president, Ed Hanley, and Ralph Natale in the Philadelphia-Camden area?

Mr. ALLEN. Yes, I was.

Mr. WEILAND. If you can recall when they occurred, please tell us that and I want you to describe for us what was said by Hanley and Natale at these meetings.

Please keep your voice up and speak into the mike.

Mr. ALLEN. I don't know the exact date, but Hanley came into Philadelphia, just right after Penny Schaefer died, and he was going to put Ernie Potts in Penny Schaefer's place running the union in Philadelphia, and he asked Natale to take care of Ernie Potts in any way he could.

Mr. WEILAND. Was there a discussion at one meeting where Hanley told Natale about control of pension fund money?

Mr. ALLEN. Yes, he said they were going to be able to loan out that money just like the Teamsters do, and there would be a hell of a lot of money on finders fees and Natale was happy about that because it could run into the millions of dollars.

Mr. WEILAND. Hanley told Natale they could loan money out like the Teamsters did?

Mr. ALLEN. Yes, sir.

Mr. WEILAND. How much money did Natale figure would be in it for him?

Mr. ALLEN. He knew exactly how much was in the pension fund and that is where the money was coming from, and there was actually no estimate on it, but the figure was very high.

Mr. WEILAND. Do you know whether Natale owned a residence in Palm Springs?

Mr. ALLEN. Yes; near Ed Hanley, Hanley told him to buy it as a matter of fact.

Mr. WEILAND. Now, Mr. Allen, in your statement, you also tell us you have previously testified before the New Jersey Commission of Investigation regarding Natale's involvement with Larry Smith in a kickback scheme?

Mr. ALLEN. Yes, sir.

Mr. WEILAND. Tell us when you met Mr. Smith and how you know about his payoffs to Natale?

Mr. ALLEN. I first met Larry Smith about 1972 or 1973, I believe it was, when I got on the payroll for a company called First American Insurance. I had just gotten out of prison and I needed a job and they put me on their payroll, not doing any work or anything, just being on the payroll.

I met Larry Smith there. He was working with a guy named Alfred O'Neill.

Mr. WEILAND. What kind of a company did they have?

Mr. ALLEN. They were putting in phony insurance claims and things like that, phony insurance policies and severance plans.

Mr. WEILAND. Do you know how often Larry Smith paid Natale?

Mr. ALLEN. Every 3 months, I believe.

Mr. WEILAND. Do you know what the payment was?

Mr. ALLEN. I don't know exactly what the payment was, but at least twice I took money from Natale he received from Larry Smith.

One time it was $7,000, and another time it was $10,000.

Mr. WEILAND. Mr. Allen, through all your association with high level members of crime, is there any doubt in your mind, Bruno, Testa, Scarfo, and their associates all controlled criminal activity in the Philadelphia area?

Mr. ALLEN. Yes, they do.

Mr. WEILAND. No question in your mind?

Mr. ALLEN. No question at all.

Mr. WEILAND. Mr. Chairman?

Chairman ROTH. Is there any question in your mind that the same group controls Union 54?

Mr. ALLEN. Ninety-nine percent of the time nobody is elected into a union in that area without Tony Pro's consent or Angelo Bruno's consent.

Chairman ROTH. How were they able to assert this influence? Why didn't anybody run against their chosen candidates?

Mr. ALLEN. Take Frank Sheerhan in Delaware. When anybody was going to run against him, myself and a few other guys would go down and give them a lot of trouble, if not beat the hell out of them, and we discouraged them.

At union meetings, we would go there and not let anybody talk except for Sheerhan, and we let everybody know we were with Frank Sheerhan and if anybody was against him, they would get hurt.

Chairman ROTH. So there was the threat of physical violence, if you ran against the candidates chosen by the "family?"

Mr. ALLEN. That is true.

Chairman ROTH. So you would agree with the statement of the New Jersey police that "I am absolutely convinced that Scarfo has significant influence over local 54 and and has used it to his personal advantage."

That is an accurate statement to your personal knowledge?

Mr. ALLEN. There is no doubt about that at all.

Chairman ROTH. An earlier witness has indicated that it is impossible, or at least the historical record shows that once organized crime takes over a union, it never withdraws, that it is able to maintain its influence indefinitely.

Is this true, in your personal observation?

Mr. ALLEN. That is the absolute truth, yes, sir.

Chairman ROTH. What can be done by the law enforcement officials or Congress to change this? Do you have any recommendation or recommendations?

Mr. ALLEN. Probably not a damn thing, Senator. See, money is a hell of a thing. Once they see that money coming in, it is hard to put down, believe me.

Chairman ROTH. Why do they pick on these particular unions? You mentioned money——

Mr. ALLEN. Take the trucking outfits, for instance.

If they grab two truckloads of cigarettes a year, you know, that is a lot of money, and these truckers are set up. Say a truckload of whisky, rare metals. I made a fortune myself on rare metals coming in from Emory Air Freight, by tips to me.

I put all these people at work at Emory, and when something good comes in I say I want that, get it for me, and I get it.

That is the way things work with the union. When the boss wants something, he's got it.

Chairman ROTH. Are you saying the reason organized crime concentrates on—you mentioned the Teamsters, is because of the availability of money for their own personal purposes?

Mr. ALLEN. You got to figure, in hotels and everything, they have the loan sharking. Any bartender that worked for Ralph Natale would loan money out for him, and to certain people and they would stand for these people and he would be responsible for collecting the money paid out plus interest, and that is an awful lot of money, Senator.

Chairman ROTH. Do you think, from your personal observation, that organized crime has increased its influence in Atlantic City, in the Philadelphia area in recent years, or have law enforcement officials made any headway?

Mr. ALLEN. Well, the law enforcement officials made no headway, but they killed off 17 people so far themselves, so that is pretty good headway.

If you just give them the guns they want, you might not have any trouble in a year or so.

Chairman ROTH. Senator Nunn?

Senator NUNN. In other words, you are not optimistic about law enforcement doing anything about this.

Mr. ALLEN. I don't believe they can honestly, unless they can get people like myself or this gentleman sitting next to me to come forward and testify, and God knows how many you will put in jail before this is over, but we are doing a good job of cleaning the street up.

Senator NUNN. You mean murderers or law enforcement?

Mr. ALLEN. I am saying, you will have to have people come and testify, people who work for them, and if they do that, just like lieutenants or just young kids, if they would come and tell what they know, you would have the unions cleaned up in no time.

Senator NUNN. What is the main obstacle in getting people to come testify like you and your associate this morning?

Mr. ALLEN. Well, I will tell you, this is one of the hardest things I ever did in my life, and I did a lot of things. It is really tough, Senator, believe me.

And I honestly don't believe I would do it again if I had a chance to, honestly.

Senator NUNN. Because of the threat to your life or why?

Mr. ALLEN. It is just so hard on you, being called off from your family. My youngest daughter, she don't know anything of what I did, and right now, she is having nightmares every night of somebody coming to kill me and her, and she knows nothing about this, but she still has these nightmares of people coming up in the car and shooting both of us.

Senator NUNN. So the threat of violence against you and your family is the reason you are apprehensive about testifying and the main reason other people don't come forward?

Mr. ALLEN. I would say, yes, sir.

Senator NUNN. You say 17 major organized crime figures have been killed in the Philadelphia area?

Mr. ALLEN. Yes, sir.

Senator NUNN. In what period of time?

Mr. ALLEN. In the last 4 years.

Senator NUNN. In the last 4 years?

Mr. ALLEN. Yes, sir.

Senator NUNN. That is 17 out of how many you would consider at that level? What is the number we are dealing with?

Mr. ALLEN. It is a great number, counting all the loan sharks and bookmakers and things like that—the number, you can't count them.

Senator NUNN. In the hundreds?

Mr. ALLEN. More than that. If you knew South Philadelphia, where we were from, any bar you go into had a man taking numbers, the horses, taking bets on football, baseball games, and loaning money.

I don't care if it was white, black, Italian, Polish, or what.

Senator NUNN. These 17 people, most of them were high up in organized crime?

Mr. ALLEN. Yes, sir.

Senator NUNN. That is what I am trying to get a feel for.

How many people are high up on the level of the 17 that got killed?

Mr. ALLEN. As soon as one gets killed, there is somebody to take their place.

Senator NUNN. So it just goes on and on?

Mr. ALLEN. Like a ball, it keeps rolling.

Senator NUNN. What reason was local 54 controlled by organized crime? What made this particular local vulnerable to that type of control?

Mr. ALLEN. Well, I will tell you. Take 10 years ago—Atlantic City was dying. Nobody wanted local 54. Now, all of a sudden, Atlantic City came. Everybody wants local 54 because of the gambling.

Senator NUNN. Are you saying that local 54 is different from other unions in Atlantic City? Do they control most of the activities in Atlantic City?

Mr. ALLEN. That is the only bartenders down there.

Senator NUNN. Are there any other unions down there?

Mr. ALLEN. I think there is one teamster union and a pipefitting union there.

Senator NUNN. Are those subjected to similar control?

Mr. ALLEN. Yes, sir, they certainly are.

Senator NUNN. You are saying they are controlled, to your own knowledge?

Mr. ALLEN. I had nothing to do with the pipefitters, but I know the teamster and the bartenders and waitresses.

Senator NUNN. You know they are controlled?

Mr. ALLEN. They are controlled by the Mafia; yes.

Senator NUNN. As of when? What is your information date on that?

Mr. ALLEN. Well, as of always, that I know of.

Senator NUNN. So it is a continuous historical thing?

Mr. ALLEN. Yes, sir. See, nobody gets elected down there unless the big shots call for them.

Senator NUNN. You are saying the only way this will be broken up is to get more people to come forward and testify?

Mr. ALLEN. Yes.

Senator NUNN. And you are saying the biggest obstacle to that is the violence to the person testifying and their family?

Mr. ALLEN. Yes, sir.

Senator NUNN. So, would you conclude from that, that a type of witness protection program is absolutely essential?

Mr. ALLEN. Yes. it is very essential and they had better improve it.

Senator NUNN. It has to be improved?

Mr. ALLEN. Yes, sir.

Senator NUNN. Would you say that it is the most important feature of dealing with organized crime?

Mr. ALLEN. Yes.

Senator NUNN. A good witness protection program?

Mr. ALLEN. Yes, sir. You could really wipe it out if you just had more people like myself and this man here come forward. That would take care of half of Philadelphia, then you would have to go to New York, Chicago, Detroit, and places like that.

Senator NUNN. Thank you.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Mr. Allen, you referred to a conversation with Eugene Boffa, in which you said Boffa gave some money to a union guy he identified as Frank Gerace?

Mr. ALLEN. Yes, sir.

Senator RUDMAN. Can you tell us about that?

Mr. ALLEN. I was wired up—I had a tape recorder, I should say, and I talked to Eugene Boffa, and he was explaining to me how he wanted to move into Atlantic City. And during the course of the conversation, he mentioned that he gave a gift, meaning money to Frank Gerace, and that Frank Sheerhan, the man I was working for, got mad at him, because any payments being made had to be paid to Frank Sheerhan, the boss of the Teamsters in Delaware.

Senator RUDMAN. To your knowledge, did Mr. Natale put a fellow named Diadone in as vice president of the local when he went to jail?

Mr. ALLEN. Yes, sir, he did.

Senator RUDMAN. Is he still serving as vice president?

Mr. ALLEN. I have been away for 4 years, but I believe he is.

Senator RUDMAN. What was your job, your responsibility, what were you supposed to do? What was your job?

Mr. ALLEN. I actually did anything I was told to do, from murder to selling drugs, from extortion to beating up people, hijacking, whatever they told me to do, I did.

Senator RUDMAN. And how much money did you make a year during this time?

Mr. ALLEN. God only knows.

Senator RUDMAN. Give me an estimate, please?

Mr. ALLEN. I was on three payrolls at the time, grabbing about $400 from each one a week, and plus $20,000 or $30,000 or $40,000, I made on my own, around a good $150,000.

Senator RUDMAN. You were making about $150,000 a year?

Mr. ALLEN. Yes, sir, I would say so.

Senator RUDMAN. And as a matter of fact, by your testimony, you would do what was asked of you?

Mr. ALLEN. Yes.

Senator RUDMAN. So that if it looked like some legitimate union or a person were going to move into the leadership position in the union and you were told to go down and make sure they were discouraged or something like that, you would do that?

Mr. ALLEN. Yes.

Senator RUDMAN. Including beating up people?

Mr. ALLEN. Yes.

Senator RUDMAN. Including murdering people?

Mr. ALLEN. Yes, sir.

Senator RUDMAN. And a few moments ago, before you came into the hearing room, Mr. Allen, I asked the second ranking officer of the New Jersey State Police whether or not the union controlled by people of such as yours and your former associates could in fact move in on any legitimate union they wanted to and take control.

I won't tell you what he said, but——

Mr. ALLEN. I think they can, yes.

Senator RUDMAN. Why is that?

Mr. ALLEN. Because no one wants to get hurt. People are afraid for their family and if a man is threatened, he could stand up to that threat. But when his family is threatened, that is pretty tough, knowing these people myself.

Senator RUDMAN. How long during your adult life, from the time you were 17 or 18, did you serve in prison?

Mr. ALLEN. I spent about 17 years in prison.

Senator RUDMAN. All the time you were working for these various organized crime families?

Mr. ALLEN. Yes, I did.

Senator RUDMAN. Thank you, Mr. Allen.

Mr. ALLEN. You are welcome.

Chairman ROTH. One final question: How many dollars were you collecting in delivering to Natale each week?

Mr. ALLEN. At least $70,000 a week.

Chairman ROTH. At least $70,000 a week?

Mr. ALLEN. Yes, sir.

Chairman ROTH. So it was big business?

Mr. ALLEN. That is just from me. He had about 30 other people working for him.

Chairman ROTH. So that is just the tip of the iceberg?

Mr. ALLEN. Yes, sir.

Senator NUNN. Mr. Allen, were you ever what is known in the trade as a made member?

Mr. ALLEN. It is on tape that I was supposed to be made the summer after I went into the witness protective program, and we wanted to—I had a trial pending, and the judge wanted to sentence me, and we wanted to try to have that postponed somehow to get a lot more information, and if we could have done that in some way, we could have had a hell of a lot of information, including the murderer of Jimmy Hoffa and a lot of things.

Senator NUNN. In other words, you never were a made man?

Mr. ALLEN. No.

Senator NUNN. You were slated to be when your trial took place?

Mr. ALLEN. Yes.

Senator NUNN. What kind of advantage would that have been for you in terms of information?

Mr. ALLEN. They talked in front of me anyway. I was very trusted, and but being a made man, which I never wanted, I honestly didn't want it, I could have had it before—being a made man, that gives you the right or privilege to go borrow or take as much money as you needed to put in the street.

If you had a business you wanted to take over, you would go and tell Bruno or Provenzano, I have this deal here and present it to them.

Senator NUNN. So you would have unlimited access to funds if you were a made man?

Mr. ALLEN. That is correct.

Senator NUNN. And you didn't have that? You were on salary?

Mr. ALLEN. I worked for anybody I wanted to.

I worked for Jimmy Hoffa, Provenzano, Bruno, anybody who wanted me.

Senator NUNN. How long did you work for Jimmy Hoffa?

Mr. ALLEN. For Jimmy, I was his bodyguard in prison, I guess about 6 years, and after he came out of prison, he got out of prison before me, and I still went to work for him after that.

Senator NUNN. You were not working for him when he disappeared, were you?

Mr. ALLEN. Yes, I was—I was working for Frank Sheerhan through Jimmy Hoffa at the time.

Senator NUNN. Thank you.

Senator RUDMAN. One question not related to the hearing but as long as you are here, do you have any theories on who killed Jimmy Hoffa?

Mr. ALLEN. The whole story is on one of my tapes, Senator.

Senator RUDMAN. Could you tell us in two sentences?

Mr. ALLEN. What happened, see, Jimmy was going to try to get back in office. I was supposed to kill Frank Fitzsimmons.

Senator RUDMAN. You were supposed to kill Frank Fitzsimmons?

Mr. ALLEN. Yes, sir, right here in Washington, as a matter of fact.

Tony—or I mean Jimmy got two other people to kill Tony Pro. There were supposed to be five people killed. One of the persons he hired to kill Tony was a good friend of Tony and went and told him what was going on.

Tony went and got permission to kill Jimmy or tried to get permission to kill Jimmy.

Senator NUNN. From whom?

Mr. ALLEN. I could not say.

Senator NUNN. From the Mafia?

Mr. ALLEN. From the bosses, yes.

The funniest thing happened that night. You can look this up in the records also—but Frank Fitzsimmons' son was coming out of a bar half drunk. He was about to get in his car and forgot his jacket, went back inside and his car got blown up. They thought the war had started, and they jumped the gun and killed Jimmy the next day.

Senator NUNN. "They" being who?

Mr. ALLEN. As far as I know, Sal Bruglio and members of Tony's gang.

Senator RUDMAN. That was before the time you were supposed to kill Frank Fitzsimmons?

Mr. ALLEN. Getting close to the time.

Senator RUDMAN. And you had orders to carry it out?

Mr. ALLEN. Yes.

Senator RUDMAN. And you would have carried it out?

Mr. ALLEN. Sure.

Senator NUNN. Who gave you those orders?

Mr. ALLEN. Jimmy Hoffa.

Senator NUNN. Directly?

Mr. ALLEN. Yes.

Senator NUNN. Hoffa told you to kill Fitzsimmons personally?

Mr. ALLEN. I got it on tape, Senator.

Senator NUNN. That may be the subject of another hearing, Mr. Chairman.

Mr. ALLEN. Don't say that, don't call me back.

Chairman ROTH. How old are you, Mr. Allen?

Mr. ALLEN. I am 50.

Chairman ROTH. Thank you, Mr. Allen. We may have reason to want to cali you back, as we proceed with our current investigation.

Our next witness is Joseph Salerno. I would point out that he has no criminal record, that he is in the security program for his own protection.

Mr. Salerno, would you please read your prepared statement?

Mr. SALERNO. My name is Joseph Salerno. I am 37 years old. My hometown is Brigantine, N.J., in the Atlantic City area. I am a master plumber. At the present time I am a protected witness in the Federal Witness Protection program.

I am here today to tell you what I know about Nicodemo Scarfo and some of his relationships—with other organized crime figures and with two officers of local 54 of the Hotel and Restaurant Employees and Bartenders International Union in Atlantic City. These officers

are the president of local 54, Frank Gerace, and the secretary-treasurer, Robert Lumio, who is now dead.

First, let me tell you how I came to know Nicky Scarfo and some of his criminal associates: people like Nicky's nephew, Philip Leonetti, Lawrence Merlino, and Salvatore (Chuckie) Merlino.

I became acquainted with all of them through the plumbing business I had operated for several years. In the spring of 1979 I ran into financial difficulties in my business. I went bankrupt. That led to family problems. So I decided to move out that summer.

I needed a place to stay, so I went to see Phil Leonetti. He said I could move into Chuckie Merlino's house in Margate. I lived there rent-free in exchange for keeping the plumbing repaired.

Then, things started to get better for me, and I moved into a building at 26 North Georgia Ave. in Atlantic City. This building is next door to the offices of Scarf, Inc., 28 North Georgia Ave., Nick Scarfo headquarters. Both of these buildings are owned by Nick Scarfo's mother.

I had a third-floor apartment at $200 a month right next to the apartment of Bobbie Lumio, then the secretary-treasurer of local 54, I operated my business out of Scarf, Inc. office for about 4 months. Nick had told me to go ahead and use the office. Nick also lived in the same building with me and Lumino. Sometimes he would have his friends in for dinner or drinks, or some kind of social get-togethers. I attended some of these get-togethers along with Nicky Scarfo and Bobbie Lumio, and we all got to know each other over the 3 or 4 months I stayed there.

Frank Gerace, the president of local 54, sometimes showed up at these parties in Nicky's apartment. I saw them together there maybe six times. And I saw Nicky Scarfo and Bobbie Lumio together many times.

Scarfo was always yelling at Lumio. He would tell Lumio that Bobbie wasn't listening to what Nicky was telling him on union matters, that Bobbie was going around doing things the way he wanted to do them and that he—meaning Nicky Scarfo—didn't like it and would have to get Lumio straightened out.

I remember one time how Phil Leonetti, who was Nicky's nephew, got me to go over with him to a building that local 54 owned and was having fixed up. Lumio was there. Phil told Bobbie that I was going to do the plumbing work. Lumio said no, that a plumber named Falaska over at Vineland was going to do it.

I don't know what went on between Lumio and Leonetti while I was looking over the building. But on the way back to the office, Phil indicated that he had gotten Lumio to come around. The way we would handle it, he said, would be that I would do the work, turn in a bill for maybe $10,000, but actually I would get only $5,000. And then they would whack up the rest—maybe I would get some, maybe Phil would get some and maybe Lumio would get some. In other words, Lumio would get a slice by misappropriating union funds by inflating the plumbing bill.

And there was the time that Nicky told me that we were going to start a corporation to take over a plumbing job from a plumber at the Playboy in Atlantic City that Nicky was having trouble with. "We're going to take this job over," he told me.

I said, "What's going to happen to the other plumber?" Nicky formed his hand like a gun and said, "That's what we'll do to him. You don't worry about that. You let me worry about that. You just listen to me." But so far as I know, he never went so far as to kill the guy.

One night Nicky, Phil, Larry, Chuckie Merlino and I went out for dinner at a restaurant in Philadelphia. It says I don't remember it, but I do remember it, it is Rigilio's, on Bank Street.

We started talking about guns. I mentioned that I owned a 30.06 Browning rifle and a 32 caliber Colt revolver with pearl handles. My parents lived in Philadelphia, and when I moved out of my house in Brigantine, my father had persuaded me to turn the guns over to him. He was afraid that with me out of the house, the children would get ahold of them and shoot themselves. Nicky seemed to be interested in the fact that I owned guns, but we didn't talk about them much that night. He said we'd talk about them later.

We did talk about them later, in November of that same year. Nicky asked me to get the guns from my father and bring them to the Scarf offices, and I did. In the meantime, Nicky was having other conversations with me. And looking back on them now, I realize he was bent on recruiting me into his world of organized crime. Once he talked about Italian bloodlines. We were both of the same Italian extraction. Another time he explained the difference between junkies, racketeers, and gangsters. And another time he asked me whether I would like to be a gangster. After each conversation like this, Nicky swore me to silence. He warned me never to talk to anyone else about anything we had discussed.

I went along with it all because I was afraid not to. Nicky had my guns, and I was afraid to ask for them back or to get them back. So I went along.

I remember another occasion when Scarfo told me, "When the old man is dead, I'm going to be next to Phil." He meant that when the old man, Angelo Bruno, was out of the way as the boss of the Philadelphia La Costa Nostra family, Nicky would move up next to Phil Testa. Anyway, Bruno was killed in March 1980. Testa did take over from Bruno. But then almost a year to the day after Bruno was killed, Testa was killed with a bomb packed with finishing nails. And the bloodshed has been going on ever since.

On another occasion, Nicky, Phil Leonetti, and Chuckie Merlino started talking about killing Alfredo Ferraro. Nick said he'd like to kill Ferraro in Nicky's own house with a knife. A gun was too easy for him, he said. He wanted to cut out Ferraro's guts with a knife and fry them.

One example which made Scarfo's control over Frank Gerace and Bob Lumio clear to me occurred on one of the days when I saw Scarfo together with Gerace and Lumio. And I've told you about the many times he was always yelling at Lumio to do things Nicky's way, and how Nicky would muscle his way into certain construction jobs.

This day I am talking about, we were sitting around Nicky's apartment behind his office. Bob Lumio came in and started telling about an article in the Atlantic City paper that said Lumio and Scarfo were hooked up together with organized crime. Nicky read it, and the more he read the madder he got. And he got real mad when Lumio started

laughing about the article. Scarfo looked up and told Lumio, "Yes, I am your boss. I got you that job"—meaning his job with local 54.

He made the same claim about Gerace later on that day. After Lumio had left, Phil Leonetti came in the apartment. We were still there, and Scarfo told Leonetti what had happened with Lumio over the article. He was still fuming and he told Phil, "Can you believe these jerkoffs? I got them these jobs and here's what I have to go through." And he started in again on Lumio, telling Phil that Lumio never listened to what he told him to do.

And then there was the time right after Scarfo told me that he and I would set up a corporation and take over the plumbing job from a contractor at the Playboy in Atlantic City.

I mentioned to Scarfo that if he did that, he might have union problems. And he says, "Don't worry about the union problems. Never any union problems we'll have, because we control the unions."

But it wasn't enough for Scarfo to control the unions, or to control people like Frank Gerace and Bob Lumio, much less get control over people like me.

Here's what I mean. I asked him once what he thought about Atlantic City, which was really beginning to boom again with all the opportunities from gambling. And he said, looking out the window at the city outside. "Joe," he says, "you see this. We'll own this city some day. That's what we're going to do."

So, Mr. Chairman, that is what I know about Nick Scarfo and his criminal associates and the control he claimed to have—and the control I saw him exercise—over local 54 and other unions in the Atlantic City area.

I would be happy to answer any questions you may have.

Chairman ROTH. Mr. Salerno, the subcommittee is vitally interested in the relationship between union officials and people associated with organized crime. I want to start by discussing the relationship between local 54 president, Frank Gerace, and Nicky Scarfo, and between other officers such as Robert Lumio and Mr. Scarfo.

How much contact was there between Gerace and Scarfo?

Mr. SALERNO. Like almost every day. There was telephone conversations, telephone calls I received, Gerace would call into Scarfo's office, and I would tell Nicky that Gerace called. In fact the way it would be, he would give many instructions to do everything out of that union.

Chairman ROTH. So these daily contacts and daily communications directly involved the operation of the union?

Mr. SALERNO. Directly.

Chairman ROTH. You said you saw Gerace attend some social gatherings at Scarfo's apartment. Did you ever see him at Scarf, Inc.?

Mr. SALERNO. Yes, I seen him several times at Scarf, Inc.

Chairman ROTH. Robert Lumio was local 54's secretary-treasurer and you testified Scarfo was always yelling at Lumio. What did that involve?

Mr. SALERNO. It involved union matters. Lumio was a type of man, he would take this upon himself to do, and Nick Scarfo didn't like that. He would hire a bartender and Nick Scarfo would find after he was hired and he would say why did you hire this bartender with-

out telling me, and he would get into a lot of big arguments with him over this.

Chairman ROTH. You mentioned in your prepared statement that Scarfo got these people their jobs. Exactly how did he get them their jobs?

Mr. SALERNO. I can't tell you, I don't know, I was not there long enough to find that out.

Chairman ROTH. Can you describe in more detail exactly what Scarf, Inc. was and how it related to Scarfo?

Mr. SALERNO. Scarf, Inc. is a concrete business, and Philip Leonetti is Scarfo's uncle, and Phil Leonetti, I believe he is the president of the corporation, and I just think that the concrete business is just a coverup for organized crime in other activities, loan-sharking and everything else.

Chairman ROTH. Served as a front?

Mr. SALERNO. Yes, it is.

Chairman ROTH. Did you ever see Scarfo receive any money at Scarf, Inc.?

Mr. SALERNO. Yes, I have.

Chairman ROTH. Can you say how often and what quantities of money are you talking about?

Mr. SALERNO. Well, large quantities, $20,000, $30,000 a time.

Chairman ROTH. Do you have any idea how often this happened?

Mr. SALERNO. I seen it about a half-dozen times myself.

Chairman ROTH. Over what period?

Mr. SALERNO. Over a period of 4 months.

Senator RUDMAN. I wonder if he could tell us from who he received that money?

Chairman ROTH. How did he receive that money?

Mr. SALERNO. Salvatore Merlino delivered it.

Chairman ROTH. In each instance?

Mr. SALERNO. Yes, sir.

Chairman ROTH. Now, it is my understanding that Nick Scarfo does not live lavishly. Do you know what he does with his money?

Mr. SALERNO. He hides it. He can't spend it. He said that many of times, he needs people like me to spend it for him.

Chairman ROTH. What do you mean by he hides it?

Mr. SALERNO. He just gets the cash and puts it somewhere, buries it somewhere. He does not put it in a bank.

Chairman ROTH. Does he put it in other legitimate businesses?

Mr. SALERNO. I believe he does.

Chairman ROTH. Do you have any idea what these businesses are?

Mr. SALERNO. No; I don't.

Chairman ROTH. Mr. Salerno. I believe some time in the fall of 1979 you attended the grand opening of Rigilo's Restaurant in Philadelphia with Nicky Scarfo, Phil Leonetti, and others, and that Mr. Scarfo introduced you to the late Phil Testa, is that correct?

Mr. SALERNO. That is correct.

Chairman ROTH. Did you see Phil Testa and Mr. Scarfo together on other occasions?

Mr. SALERNO. Yes, I have.

Chairman ROTH. What was Scarfo's attitude toward Phil Testa?

Mr. SALERNO. Well, my idea—I think Scarfo hated the man with a passion, and he made a lot of insinuations about going to Philadelphia and going to this lousy restaurant and a lot of other things.

Chairman ROTH. Testa was killed in a gang killing; is that correct?

Mr. SALERNO. That is right.

Chairman ROTH. Do you have any knowledge as to who ordered that or how that happened?

Mr. SALERNO. No, I don't; I have no knowledge.

Chairman ROTH. What about Scarfo's attitude toward Bruno?

Mr. SALERNO. Same thing as Testa. He didn't like him, either.

Chairman ROTH. Do you have any personal knowledge as to who ordered the killing of Bruno or how that came about?

Mr. SALERNO. No; I don't.

Chairman ROTH. I would like to address both those questions if I might to Mr. Allen.

Do you have any personal knowledge as to who was responsible for the murder of Phil Testa?

Mr. ALLEN. No, sir; I was in the program at the time that happened, and I have no street contact at all with anybody.

Chairman ROTH. How about the gang murder of Bruno?

Mr. ALLEN. No, sir; like I said, I was in the program then and we didn't even get newspapers then.

Chairman ROTH. During both of those cases?

Mr. ALLEN. Yes, sir.

Chairman ROTH. Now, you testified about a conversation with Nick Scarfo where he distinguished among junkies, racketeers, and gangsters. What did he tell you the difference was and where did he fit in?

Mr. SALERNO. Well, he got me in the bar one day, and he told me there are junkies, racketeers, and gangsters. We don't bother with junkies. Racketeers, they have to come to us for killing and murders. And he says, racketeers pay cops off and we don't. He said, us—we do everything ourselves, we are the real Mafia—us.

Chairman ROTH. What was his position in the family at that time?

Mr. SALERNO. I have no idea; I don't know.

Chairman ROTH. I understand that Phil Leonetti told you local 54 Secretary-Treasurer Robert Lumio expected to have the local pay for the remodeling of his apartment?

Mr. SALERNO. Yes.

Chairman ROTH. What are the details of this and how much money was involved?

Mr. SALERNO. He had an apartment on Georgia Avenue he remodeled. And Toro Construction, owned by Bob Locicero in Vineland, had a plumber of Toro Construction; his name was Phil Aster. They were going to do the renovation at local 54. In the meantime, Toro was remodeling Lumio's apartment house and I overheard Nicky Scarfo tell Leonetti that he is into Toro Construction for over, or close to, $15,000 at the present time. So he said, you better get the job going at local 54, OK, because that is how he is going to pay for it with union funds, draws on contracts, the same way like I explained in my statement here, to pay for the remodeling of the apartment.

Chairman ROTH. Can you give any other examples of Scarfo's control over the labor movement or building trades in Atlantic City?

Mr. SALERNO. The only thing I can tell you is what I know here,

but I have no doubt in my mind he controls a lot of unions in Atlantic City.

Chairman ROTH. It is much broader than 54?

Mr. SALERNO. Yes.

Chairman ROTH. But you have no personal knowledge?

Mr. SALERNO. No.

Chairman ROTH. Senator Nunn?

Senator NUNN. Just a couple of questions to Mr. Allen again.

Mr. Allen, could you tell us when Jimmy Hoffa gave you orders to murder Frank Fitzsimmons?

Mr. ALLEN. It started in prison when me and Jimmy talked, and when Jimmy—Jimmy got out of prison and then I got out of prison, and we talked about it again, and that was about 1973.

Senator NUNN. Was there a specific agreement, was it just general conversation, or was there a specific agreement where he said, I want you to kill him?

Mr. ALLEN. It was all set up.

Senator NUNN. It was a specific agreement?

Mr. ALLEN. Yes, sir.

Senator NUNN. When were you supposed to do the killing?

Mr. ALLEN. Jimmy still had parole and he had to get it off. As soon as he got that parole off him, we would do the work.

Senator NUNN. How much longer did he have that to run before——

Mr. ALLEN. He was supposed to have this set up to pay people to get him off parole; he was making plans to get him off parole.

Senator NUNN. Did you have any kind of specific understanding? Had you agreed to carry out this contract murder?

Mr. ALLEN. Yes, sir, I did.

Senator NUNN. Was anyone else present when that conversation occurred?

Mr. ALLEN. Frank Sheerhan was there and it was on tape.

Senator NUNN. What is on tape?

Mr. ALLEN. That me and Frank Sheerhan, talking about it.

Senator NUNN. But was the tape including Hoffa?

Mr. ALLEN. No; I would never do that to Jimmy.

Senator NUNN. So just you and Frank?

Mr. ALLEN. Yes, that was after Jimmy was dead.

Senator NUNN. After he was dead?

Mr. ALLEN. Yes.

Senator NUNN. No tape involving Hoffa also?

Mr. ALLEN. No; I would not do that to Jimmy.

Senator NUNN. Where did that conversation take place, the one that actually gave you specific directions to carry out the killings?

Mr. ALLEN. Jimmy had come to buy a coal mine in upstate Pennsylvania, and we got together there, and we talked and then talked again in Philadelphia, when he came to Philadelphia.

Senator NUNN. Did you have anyone that was going to help you carry out the killing?

Mr. ALLEN. No, sir.

Senator NUNN. Just your job?

Mr. ALLEN. Yes, sir.

Senator NUNN. Where was it to occur?

98-802 O - 82 - 6

Mr. ALLEN. Right here in Washington, in the Teamsters parking lot, underneath the Teamsters building.

Senator NUNN. Had you actually planned it?

Mr. ALLEN. Jimmy said that was the best place.

Senator NUNN. So you actually talked about how to do it?

Mr. ALLEN. Yes, sir.

Senator NUNN. You were going to do it with a gun?

Mr. ALLEN. Yes, sir.

Senator NUNN. Now, you mentioned a minute ago Frank Fitzsimmons was the intended victim of an explosion in his car?

Mr. ALLEN. Yes, sir.

Senator NUNN. Was that something that Hoffa also planned?

Mr. ALLEN. No; it was some kind of a mistake somewhere, an enemy against his son, which we don't know nothing about.

Senator NUNN. When that explosion took place it had nothing to do with your orders to kill Frank?

Mr. ALLEN. Yes.

Senator NUNN. You said they thought you did. Who?

Mr. ALLEN. Tony Pro and Frank Fitzsimmons.

Senator NUNN. Are you saying Tony Pro and Frank Fitzsimmons were close associates and friends?

Mr. ALLEN. Sure they were.

Senator NUNN. And you are saying that that in effect triggered the disappearance of Hoffa?

Mr. ALLEN. Yes, sir.

Senator NUNN. Did Fitzsimmons think Hoffa was about to kill him?

Mr. ALLEN. He knew it, yes, sir.

Senator NUNN. How did he know it?

Mr. ALLEN. Jimmy made the mistake of trusting Chuckie O'Brien, his adopted son. He wanted to run for office in Detroit and Jimmy promised it to somebody else, and Jimmy would not let Chuckie run. Chuckie went over to Tony Pro's side. Chuckie told Tony I had the contract to kill Fitzsimmons, and that Frank Sheerhan knew about it. In the meantime, Tony had Jimmy killed, and I believe it was the day after Jimmy got killed, myself and Frank Sheerhan was called to New York on a sitdown, what they call a sitdown.

Tony Provenzano took me to the side of the restaurant and said no matter what happened, I want you to tell me the truth, I said hey, I have nothing to lie about. He said did you have the contract on Frank Fitzsimmons, and I said yes I did. He said no matter what, tell me the truth. Did Frank Sheerhan know about it, and I said no, Tony, no, Frank never knew nothing about it.

He said did you know about me being killed, and I said no I didn't, he said Frank Sheerhan, I said Tony, absolutely no.

And myself and Russ Bufalino spoke up for him at that meeting else they will kill him.

Senator NUNN. Kill who?

Mr. ALLEN. Frank Sheerhan.

Senator NUNN. Was he at that meeting?

Mr. ALLEN. Yes, sir.

Senator NUNN. Who else was there?

Mr. ALLEN. Myself, Tony Pro, Tony Bufalino, Frank Sheerhan, Sal Brugilio, and a couple of Tony's bodyguards.

Senator NUNN. Who was supposed to kill Tony?

Mr. ALLEN. I don't know, Jimmy had got two others—see, I didn't know who else was going to be killed. I found out later he was going to have Jimmy killed.

Senator NUNN. Who was going to have Jimmy killed?

Mr. ALLEN. Or I mean Jimmy would have Tony killed by two different people.

Senator NUNN. Hoffa was supposed to kill both of them?

Mr. ALLEN. Plus three other fellows too.

Senator NUNN. In an effort to take back over the Teamsters?

Mr. ALLEN. To put everything in line.

Senator NUNN. Did Hoffa tell you this personally?

Mr. ALLEN. I found that out later. I didn't even know about Tony Pro being killed.

Senator NUNN. Did he tell you the reason you were killing Fitzsimmons?

Mr. ALLEN. Sure.

Senator NUNN. Why?

Mr. ALLEN. Because he would take over.

Senator NUNN. And Fitzsimmons wouldn't let him. Had he tried to do it peacefully?

Mr. ALLEN. They had the agreement that Frank would step down after Jimmy got out, which he would not do after. The same thing with Joey McGreal.

Senator NUNN. So Fitzsimmons had gone back on his word?

Mr. ALLEN. Yes, sir.

Senator NUNN. Were you going to be paid for this?

Mr. ALLEN. With Jimmy you didn't have to get paid, he always took care of you.

Senator NUNN. So no specific amount of money?

Mr. ALLEN. No.

Senator NUNN. You were doing it because he was your employer?

Mr. ALLEN. No, when I first got out of prison, I got $18,000 off Jimmy, later on $15,000.

Senator NUNN. Cash?

Mr. ALLEN. Cash money. I received $10,000 off Jimmy, and every time you see Jimmy, he would have $5,000, and you don't get paid off Jimmy, he just gives it to you.

Senator NUNN. Who did you say you thought caused the disappearance of Hoffa, or killed him?

Mr. ALLEN. The actual killing I don't know, but Chuckie O'Brien was supposed to set it up. I talked to him later and he set it up.

Senator NUNN. Did he tell you that?

Mr. ALLEN. No, just common street knowledge.

But I was told by Anthony Provenzano that Jimmy was killed, ground up in little pieces and shipped into little pieces and dumped into the swamps, and I was told that by Tony Provenzano.

Senator NUNN. When did he tell you that?

Mr. ALLEN. When I was down in Florida with him.

Senator NUNN. What year was that?

Mr. ALLEN. I have no idea.

Senator NUNN. After 1973?

Mr. ALLEN. Yes, sir.

Senator NUNN. Was anybody else present when he told you that?

Mr. ALLEN. No, sir.

Senator NUNN. Thank you, Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. I will be very brief, but Mr. Allen, I would like to ask you several other questions.

You know the difference between hearsay and fact, I assume?

Mr. ALLEN. Yes, sir.

Senator RUDMAN. I am going to ask you some questions. I don't want any hearsay or street knowledge or speculation, just what you know.

You know Tony Pro?

Mr. ALLEN. Yes.

Senator RUDMAN. You just referred to Sal Brugilio in your testimony?

Mr. ALLEN. Right.

Senator RUDMAN. You have lived in New Jersey for how long, Philadelphia area?

Mr. ALLEN. All my life.

Senator RUDMAN. You have been tied in with the mob there all your life?

Mr. ALLEN. Yes.

Senator RUDMAN. Do you know Ralph Macardel?

Mr. ALLEN. I would have to see a picture of him.

Senator RUDMAN. So that name means nothing to you?

Mr. ALLEN. No, sir.

Senator RUDMAN. Have you at any time been involved in your various criminal activities with the construction industry?

Mr. ALLEN. No.

Senator RUDMAN. What industries have you been involved with?

Mr. ALLEN. Just the teamster and bartenders and waitresses.

Senator RUDMAN. So you don't really know any shenanigans in the construction industry?

Mr. ALLEN. No.

Senator RUDMAN. I have no other questions.

Mr. WEILAND. Before we let the witnesses go, Mr. Chairman, I would like to point out, Mr. Salerno at one point you referred to Mr. Leonetti as Scarfo's uncle, you meant nephew?

Mr. SALERNO. Nephew.

Mr. WEILAND. Also it should be pointed out that Tony Provenzano is still in good health as far as we know and serving a prison sentence, Mr. Chairman, and one last question for you, Mr. Salerno.

You mentioned deliveries of money to Mr. Scarfo by a man named Salvatore Merlino?

Mr. SALERNO. Yes.

Mr. WEILAND. Is that Chuckie Merlino?

Mr. SALERNO. Yes.

Mr. WEILAND. Identify him for the record, who is he?

Mr. SALERNO. He is Lawrence's brother, Nicky's right-hand man.

Mr. WEILAND. For the record, Mr. Salerno was a witness in a murder trial and is in the witness protection program for his own protection, has never been charged with the crime and never convicted.

Senator NUNN. Mr. Chairman, I have one other question for Mr. Allen.

Mr. Allen, you mentioned Jimmy Hoffa would pay off certain people to get his parole terminated.

Did he ever mention who he was going to pay off?

Mr. ALLEN. No.

Senator NUNN. He did not name names?

Mr. ALLEN. No; a high official.

Senator NUNN. In the Federal Government?

Mr. ALLEN. Yes, sir.

Senator NUNN. But you don't know the name?

Mr. ALLEN. No, sir.

Senator NUNN. Thank you.

Chairman ROTH. All right, the hearing room will have to be cleared again, so I would ask everyone to leave the room.

The subcommittee will please come to order.

I would advise the members of the panel and the press that we intend to complete the schedule right through the lunch hour.

Our next witness will be Mr. Ralph Natale.

Mr. Natale is currently incarcerated in a Federal penitentiary and has been brought here pursuant to a writ of habeas corpus.

As we have heard already today he was the one-time secretary-treasurer of the Atlantic City local.

Mr. Natale, would you please stand in order to be sworn in as a witness.

Raise your right hand.

Do you swear the testimony you are about to give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Please be seated.

TESTIMONY OF RALPH NATALE, FORMER SECRETARY-TREASURER OF LOCAL 170, ACCOMPANIED BY GLENN A. ZEITZ, ESQ., ATTORNEY AT LAW

Chairman ROTH. Mr. Natale, at this time I would like to reiterate the primary legislative purposes for this hearing.

Under Senate Resolution 333, this subcommittee has been given the authority to investigate the extent to which criminal or other improper practices have affected labor or management relations.

Today's hearing is one part of an extensive review of the hotel employees' union. This subcommittee is interested not only in developing a complete factual record, but also in determining whether any changes are necessary in the laws of the United States in order to protect those individuals and organizations which have dealings with the union.

Under Senate Resolution 333, the subcommittee also has been given the authority to investigate organized crime and specifically its impact upon commerce and lawful business enterprises. And we are therefore interested in whether organized crime or other corrupt influences are present on the hotel employees' union, either on a local or international level.

We are also interested in whether these organizations are being operated in conformity with Federal labor statutes and the rules of fiduciary responsibility.

The subcommittee has heard the name of Ralph Natale during the testimony of previous witnesses and subcommittee investigators have come across his name during the course of their investigation.

Mr. Natale is more than a bystander in local 54. He has been actively involved in this local. It is only natural that he be called both to afford him an opportunity to respond to previous statements, as well as to give this subcommittee an opportunity to ask questions that only he can answer.

Mr. Natale, at this time, I would like to advise you of your rights and obligations as a witness before this subcommittee.

You have a right to consult with an attorney prior to answering any question or questions, and you have the right under the subcommittee's rule of procedures to have an attorney present with you.

And I would ask that your counsel identify himself for the record by giving his full name and address.

Mr. ZEITZ. I am Glenn Zeitz, Z-e-i-t-z, a member of the bars of Pennsylvania and New Jersey.

My office address is the Western Savings Bank in Philadelphia, and 520 Kings Highway in Morristown, N.J.

Chairman ROTH. Mr. Natale, do you understand your rights as a witness before this subcommittee?

Mr. NATALE. Yes, I do.

Chairman ROTH. Do you also understand that as a witness you have an obligation to testify fully, subject to any legitimate constitutional or statutory privileges which you may wish to assert, and you have an obligation to testify truthfully.

Untruthful testimony will subject you to the laws and penalties regarding perjury.

Do you understand these obligations?

Mr. NATALE. I do, Senator.

Chairman ROTH. Mr. Natale, please state your name and address for the record.

Mr. ZEITZ. Excuse me, before my client responds to that question, I think it would be appropriate to have counsel to the subcommittee confirm at least an understanding that I had with regard to Mr. Natale's status.

And, also, the procedural history that got him to where he is right now.

And, third, our understanding with regard to the scope of the subcommittee's investigation and the scope of the questions that will be asked of Mr. Natale specifically.

Mr. Natale is incarcerated in Lewisburg Penitentiary. He is presently under indictment in a matter which I am handling in the Federal district court in Camden. He has another matter which is presently on appeal in the district court in Florida, fifth circuit.

When the subcommittee requested his presence, Mr. Natale directly and through counsel advised the subcommittee he would assert his 5th amendment privilege. And thereafter, and quite recently, we were advised the subcommittee had gone before district court Judge Gesell and requested immunity be given to Mr. Natale.

This was obviously not requested or solicited by Mr. Natale, but done ex-parte by the subcommittee.

I have received and have in front of me what purports to be a copy of an order that was filed June 18, of this year, bearing a miscellaneous No. 82–0124, which purports to give Mr. Natale limited use immunity at this hearing.

It is my understanding in a very brief conversation I had with Mr. Shapiro, that the scope of the subcommittee's investigation is a very narrow scope, and that matters which may in some way, shape or form touch upon Mr. Natale's pending criminal matter in the District Court in New Jersey, and also matters which may touch upon the matter which is presently under appeal in Florida, and which has not resulted in a final judgment, would in no way, shape or form come before this body, and he would not have to answer any questions in those areas.

Now, my only concern, quite candidly, is having sat in this room for the last few hours and listened to the questions that have been put to other witnesses, in particular, Mr. Charles Allen, who I might add I have a great deal of familiarity with, having tried two lengthy matters in which he testified as a Government witness, that there are areas that have seemed to be brought up which go beyond the scope of what was told to me by your counsel would be the narrow area that Mr. Natale would be questioned on.

And I relate the Hoffa matter and various other matters that seemed to come up during the course of the questions.

I would like to have a confirmation by the counsel and perhaps the chairman and other members of this subcommittee that my understanding and that of my client concerning the narrow scope the questioning is still a correct understanding.

Chairman ROTH. I will ask the chief counsel, Mr. Weiland to answer.

Mr. WEILAND. I can confirm that we have certainly told Mr. Zeitz that we are interested in Mr. Natale in conjunction with the subcommittee's inquiry relating to the Hotel and Restaurant Workers Union.

We have no interest in his Miami, Fla. conviction or his Fort Lauderdale conviction, nor do we have an interest in his current indictment.

There is no intention of asking him any questions relating to those two matters.

Insofar as the Hotel and Restaurant Workers are concerned, however, we have given no commitments not to explore fully the subcommittee's interest with respect to that union.

I would suggest that we proceed with the questions, and if Mr. Zeitz or Mr. Natale have some objection that they want to raise, we will deal with it at that time.

Mr. ZEITZ. Fine.

Chairman ROTH. Mr. Natale, would you please state your full name and address for the record?

Mr. NATALE. Ralph Samuel Natale. My current address is Lewisburg Federal Penitentiary, Lewisburg, Pa.

Chairman ROTH. I am going to ask our chief counsel to proceed with the questions.

Mr. WEILAND. Is it accurate that you were formerly the secretary-treasurer of local 170, the Hotels International Union?

Mr. NATALE. Yes, that is accurate.

Mr. WEILAND. How did you first become involved in the activities of this local?

Mr. NATALE. By being a member, by holding a bartender's card.

Mr. WEILAND. What period of time did that cover?

Mr. NATALE. I imagine from 1962 or 1961, up until just about 40 months ago when I was arrested and put in jail.

Mr. WEILAND. Did you also have a position with the international?

Mr. NATALE. I was the international organizer.

Mr. WEILAND. During what period of time did you hold that position?

Mr. NATALE. I don't know—let's see, I would say during 1976.

Mr. WEILAND. What role did Angelo Bruno play in the operation of local 170?

Mr. NATALE. None whatsoever.

Mr WEILAND. None whatsoever?

Mr. NATALE. None whatsoever, sir.

Mr. WEILAND. What about Mr. Scarfo?

Mr. NATALE. None whatsoever.

Mr. WEILAND. The subcommittee heard substantial testimony that links members of the Angelo Bruno family with efforts to control the casino industry in the Atlantic City system, including local 54.

First, I would like you to describe your own relationship with Angelo Bruno.

Mr. ZEITZ. Excuse me, could we have a point in time?

My client has spent the last 40 months incarcerated, and as you can see, he is a man, I believe, in his late forties or early fifties.

I think it is only fair to him if you ask a question, you pinpoint it in terms of time.

Mr. WEILAND. When did you first meet Mr. Bruno?

Mr. NATALE. I met Mr. Bruno when I was a teenager.

Mr. WEILAND. And you were acquainted with him up to the time of his death?

Mr. NATALE. Yes.

Mr. WEILAND. How would you describe your relationship with him?

Mr. NATALE. As with quite a few of us that were born and raised in that neighborhood, we knew Mr. Bruno, and he was like a friend to us. That is about it.

Mr. WEILAND. Did you ever do business with him?

Mr. NATALE. No business whatsoever.

Senator NUNN. I just——

Mr. WEILAND. Isn't it a fact Mr. Natale, that Angelo Bruno engaged in schemes that had involvement in loan sharking, bribery, and arson?

Mr. NATALE. I don't know that as a fact.

Mr. WEILAND. Did you ever have discussions with Mr. Bruno concerning the organization of the hotel and restaurant workers in Atlantic City?

Mr. NATALE. None whatsoever.

Mr. WEILAND. Are you acquainted with the general president of the Hotel and Restaurant Workers International, Ed Hanley?

Mr. NATALE. Yes, I am.

Mr. WEILAND. How long have you known Mr. Hanley?

Mr. NATALE. Just about 10 years ago when he first went on as a vice president, maybe 10 or 12 years ago. Yes, I would say about 12 years ago now.

Mr. WEILAND. Have you discussed with Mr. Hanley the merger of the health and welfare and pension funds of locals into the international?

Mr. NATALE. We had our health and welfare plans separate, you mean?

Mr. WEILAND. Yes. Have you had discussions with him?

Mr. NATALE. The only discussion I ever had with our general president, Ed Hanley, was that if we didn't have better benefits than he could—that the international had, then we should merge for the benefit of our members, but at that time our local, if you look into your history, had probably the best benefits in the United States as far as a hotel and restaurant local was concerned.

In fact, as good as any Teamster Union in the country, and for bartenders and waitresses—that is telling a lot.

Mr. WEILAND. Mr. Hanley was trying to build up——

Mr. NATALE. No, sir, he was trying to do one thing. When I took office the first time, our members were having an insurance policy of $12 or $13 a day in the hospital. I quickly changed from the insurance care and put everything into Blue Cross-Blue Shield and whatever and we automatically were covering that.

What Hanley was trying to do, my local had only $12 or $15 a day—this is all part of the record, if you go back, maybe back 7 years ago—if we didn't have the benefits the international had, he asked us to have them.

If we had equal, we would run our local our own way. There was never any inducement.

Mr. WEILAND. Several locals did merge their programs into the international; is that right?

Mr. NATALE. I don't know, I was not that familiar with it.

Mr. WEILAND. Did Hanley ever discuss the fact with you that the international would have money to loan out from the health and welfare and pension funds of the international?

Mr. NATALE. No, never had any discussion.

Mr. WEILAND. You never discussed that with Mr. Hanley?

Mr. NATALE. No.

Mr. WEILAND. Did you ever have discussions with anyone regarding the earning of a finder's fee for placing such loans?

Mr. NATALE. No.

Mr. WEILAND. Did you ever tell anyone you received money from an Atlantic City casino in exchange for your efforts in assuring the union would lose a certification election at that casino?

Mr. NATALE. I will answer that in two parts: No, I didn't and I have never—I don't think I ever was involved in any type of certification at the time, with any casino. The only casino was Resorts at that time. It just opened, and then I went away to jail.

Mr. WEILAND. Did you have any discussion with anyone regarding a union election at Resorts?

Mr. NATALE. None whatsoever.

Mr. WEILAND. Do you know Larry Smith, the consultant for the dental plan of 170?

Mr. NATALE. Yes.

Mr. WEILAND. When did you first meet Mr. Smith?

Mr. NATALE. Just about when I took—well, a few years. I knew Larry prior to that, when I took office, when I first took office in local 170.

Mr. WEILAND. Would you explain for the members of the subcommittee just what Mr. Smith does with respect to dental plans?

Mr. NATALE. He is a consultant on the dental plan for the North American Dental Plan. I don't know what he is doing now.

Mr. WEILAND. What was he doing then in his role as a consultant?

Mr. NATALE. No. 1—you mean as far as the dental plan?

Mr. WEILAND. Yes.

Mr. NATALE. Formalize the dental plan and present it to the different locals in our area, and we were looking for a dental plan, and we tried to institute one in our local.

Mr. WEILAND. Is it true that you were prepared to give your cousin, Nick Altimari the dental consulting business for local 170 when Angelo Bruno instructed you to give it to Smith?

Mr. NATALE. No.

Mr. WEILAND. Did Bruno give you that instruction?

Mr. NATALE. No; he never gave me my instructions.

Mr. WEILAND. Did you ever receive any money from Mr. Smith?

Mr. NATALE. Money from Mr. Smith? No.

Mr. WEILAND. None whatsoever?

Mr. NATALE. None whatsoever.

Mr. WEILAND. Did you ever pay any money to Angelo Bruno?

Mr. NATALE. No.

Mr. WEILAND. Did you ever get a loan from Mr. Bruno?

Mr. NATALE. No.

Mr. WEILAND. Did you help Smith get the business, the consulting business with respect to other locals?

Mr. NATALE. The only thing I did with Larry Smith, if I knew different business agents were looking for plans, I knew that Larry did a tremendous job in our local, being our health and welfare administrator, and if they had asked me like when you normally meet at banquets, how was I doing with my administration, because we had a problem when I first took over, and I advised them if they were looking for an administrator who knew what he was doing, it was Larry Smith.

Mr. WEILAND. And which locals did you introduce him to?

Mr. NATALE. I don't know.

Mr. ZEITZ. I object. He did not say he introduced him to anybody. That is a mischaracterization of what his response was.

Mr. WEILAND. To whom did you recommend Mr. Smith?

Mr. NATALE. Counsel, I can't remember. That has been 4 years since I have been away. It may have been everybody I met in the year—now I don't remember who asked me, a few, you know. They might have asked me something I can't remember the exact time or who it was or whatever.

It is like eight or nine guys together, they say, "How's your health and welfare"; they say, "I have got a problem." I say "See Larry Smith."

Mr. WEILAND. How many locals did Mr. Smith work for?

Mr. NATALE. I don't know.

Mr. WEILAND. How long have you known Charlie Allen?

Mr. NATALE. Charlie Allen—well, since we were young fellows.

Mr. WEILAND. What did Mr. Allen do for you?

Mr. NATALE. He put me in jail.

Mr. ZEITZ. When?

Mr. NATALE. And I don't mean to be a comedian, but that is what he did.

Mr. WEILAND. Did he work for you?

Mr. ZEITZ. When?

Mr. WEILAND. At any time?

Mr. NATALE. No, he never worked for me.

Mr. WEILAND. Did you ever pay Mr. Allen for any services at all?

Mr. NATALE. No.

Mr. WEILAND. At no time?

Mr. NATALE. At no time.

He did work in local 170. He took a membership out and we sent him to work as a union bartender on banquets, and he got confused.

He could not work anymore. He didn't want to work and make an honest dollar. If you want to call that working for me, he worked out of my local.

Mr. WEILAND. May we just have a minute, Mr. Chairman?

[Pause.]

Mr. WEILAND. Just to clarify the record, Mr. Zeitz, it is our understanding that your impression is, and has been, that he is testifying pursuant to the immunity order you referred to; is that correct?

Mr. ZEITZ. It is my understanding that the order I have in front of me, which as I indicated bears a filing date of June 18, 1982, is providing my client with use of immunity with regard to anything he testifies to at this hearing, and that this use of immunity was obtained by the subcommittee ex parte, not at his request.

Mr. WEILAND. Correct.

I would like to offer for the record the original of the order signed by Judge Gesell and have it marked as an exhibit.

Chairman ROTH. Without objection.

[The court order referred to was marked as "Exhibit No. 5," for reference, and follows:]

EXHIBIT NO. 5

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUN 1 8 1982

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS United States Senate Washington, D.C. 20510, Applicant.	Misc. No. 82-0124

On consideration of the application by the Senate Permanent Subcommittee on Investigations, and the memorandum of points and authorities, and exhibits, in support thereof, the Court finds that the procedural requisites set forth in 18 U.S.C. § 6005 for an order of the Court have been satisfied. Accordingly, it is

ORDERED that Ralph Samuel Natale may not refuse to appear and testify before the Senate Permanent Subcommittee on Investigations on the basis of his privilege against self-incrimination, and it is

FURTHER ORDERED that no testimony compelled under this Order (or any information directly or indirectly derived from such testimony) may be used against Ralph Samuel Natale in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with this Order.

Howard A. Feed
United States District Judge

6/18/82

United States District Court
for the District of Columbia
A TRUE COPY
JAMES F. DAILY, CLERK
By
Deputy Clerk

Mr. WEILAND. No further questions.

Chairman ROTH. Mr. Natale, we had before us earlier, as you know, Mr. Charles Allen, who was also under oath, testify as follows, "That from 1976 until February 1979—Mr. Allen—worked for Ralph Natale as a bodyguard, strongarm and anything he wanted me to do."

Now, you have testified that he did work with the union.

During that time, did he serve in these capacities with you?

Mr. NATALE. None whatsoever.

Chairman ROTH. No way whatsoever?

Mr. NATALE. No way whatsoever. I can take care of my own body.

Chairman ROTH. Now, during that time, Mr. Allen testified that he had conversations with you and Franny McDonald, "another of Ralph's strongarms, where they both admitted being at the murder scene with guns."

Now, what he is referring to is the attempt to kill—or the murder of Mr. McGreal—when he got out of prison and tried to regain control of the local; that he was shot and killed in 1973.

Did you have any such conversation with Mr. Allen?

Mr. NATALE. None whatsoever.

Chairman ROTH. Mr. Allen makes reference to a meeting that was held at the Centanni Restaurant in South Philadelphia sometime in 1978, around the time the Resorts International opened in Atlantic City.

At this meeting, he says you told him:

> The purpose of this meeting was to settle a dispute between him and you and Scarfo over who would control the Hotel Workers Union in Atlantic City, and who would have control over who provides the laundry, glassware, meat, et cetera, to the hotels.

Did you attend any such meeting?

Mr. NATALE. Senator, I never had any discussion with Mr. Scarfo on any of these subjects. Mr. Scarfo occasionally came to my restaurant as a customer and that is how I know him, Mr. Scarfo, as a customer, period.

Mr. Allen is having his imagination strained again.

Chairman ROTH. There was no dispute between you and Scarfo as to who would control the Hotel Workers Union in Atlantic City and who would control over who provides laundry, glassware, meat, et cetera?

Mr. NATALE. None whatsoever, Senator.

Chairman ROTH. Did you on or about October 2, 1978, ask Mr. Allen to get a 22 automatic with a silencer? On October 5, Mr. Allen said you needed five guns with silencers. He said:

> Mr. Natale told me they were for people downtown, which I knew meant Angelo Bruno and his people.
>
> The next day on the 6th he asked for ten 22 automatics for a gang war and stated that Long John Martorano had the ten silencers fitted to the guns.

Did you make any such request?

Mr. ZEITZ. Now that question, Mr. Chairman, at least to my judgment, goes outside the scope of what I understand the nature of this subcommittee's hearing is about.

Now, Mr. Allen at the present time is a Government witness and we have been advised by the Government that he will be a witness against Mr. Natale at the Federal court in Camden. This subcommittee should

be aware Mr. Allen struck a memorandum of agreement with the Government to get a sweetheart of a deal which got him 5 years probation and a Government pass, and in return for that he has been testifying against Mr. Natale and other people.

Now that subject matter you just touched on ties directly with matters contained in the memorandum agreement between Mr. Allen and the Government, and as far as I am concerned, I feel goes beyond the scope of what I understand the nature of this subcommittee's questions to be, and accordingly, I will advise my client not to answer that question.

Mr. WEILAND. First of all, we disagree completely that is outside the realm of any agreement we were involved in. I regret if it is outside your own understanding. We believe that that question is completely relevant to the subcommittee's undertaking here as it relates to gang warfare in Philadelphia and control of union business, and, therefore, I would urge you to reconsider your recommendation to your client.

Mr. ZEITZ. What my client is entitled to is a matter of due process, at least a proffer from the counsel or the chairman with regard to the relevance of that particular question and answer to the subject matter before this subcommittee.

If we were in a court of law, I believe those members who were attorneys would clearly feel duty bound to make a request from the court as I am making from the chairman to make a proffer in this area.

Now, Mr. Natale so far has agreed to answer questions. We are now in an area where we are entitled to some proffer from counsel or the chairman concerning this area.

Chairman ROTH. Well, the Chair would just point out that a principal purpose of this session is to show the influence, infiltration, and the relationship between organized crime and union 54. So that this is a matter properly before the subcommittee and the Chair will have to overrule the objection.

Mr. ZEITZ. It is not an objection. It is a request for a proffer so I can advise my client as to what line of questioning will follow from that answer and how that touches on the scope of the examination that you intend to go into.

Chairman ROTH. The Chair has already pointed out that our line of questioning this morning has been to determine the extent to which organized crime in the Philadelphia-Atlantic City area has infiltrated, influenced or obstructed unions within that region, so that I believe that you have been appropriately answered.

Mr. ZEITZ. If I am not mistaken, I believe the subcommittee has in its possession various transcripts of tape recorded conversations that took place between Mr. Allen and Mr. Natale and other people. If Mr. Natale is going to be questioned in an area relating to a tape recorded conversation that occurred between himself and Mr. Allen, then I request of this subcommittee and fundamental fairness that we be supplied of copies of the transcript that relate to any questioning that may take place with regard to tape recorded conversations.

Now, I have read the procedural rules and I have familiarized myself with the case law, and I believe my client, and I as counsel, would be entitled to any documents you have in your possession from which you are questioning Mr. Natale, including any transcripts of any——

Senator NUNN. May I ask counsel one question?

Chairman ROTH. Yes.

Senator NUNN. May I ask the counsel that your client has been asked to testify and was given immunity. I am puzzled why counsel would object to him answering, when it could clearly not be used against him?

Mr. ZEITZ. My response is as follows: The order is clear, it indicates that he has use immunity. However, in a situation involving this, as I am sure you are aware, Mr. Natale could be prosecuted for perjury or giving a false statement or failing to comply with the order of the court.

He has been incarcerated over 40 months. Much of the questions and the subject matter which is before the subcommittee right now is of an ancient vintage that goes back 4, 5, 6 years before that.

My client, as I have indicated, has been incarcerated for 40 months. If there are questions being put to him relating back to this time period which I believe was somewhere around October 1978 up to and including February 1979, then we are talking about a period of time of almost 4 years ago, and I would submit in order for my client to be in a position to give true and responsive answers to your questions, that it would only be fair in order for him to not be caught in a contempt or perjury trap to have the opportunity to have access through his counsel to any transcripts of tape recorded conversations which form the bases of the questions.

Chairman ROTH. Well, the Chair will overrule the counsel.

Mr. Natale can answer to the best of his ability. The question is appropriate under the rules of this subcommittee, and I would ask you once more to answer it.

Mr. NATALE. Senator, I am going to have to answer you the way the FBI answered questions at my trial, where my defense is, to the best of my recollection, because it is not to the best of my recollection.

I would like to answer it, but I don't have these answers in front of me that were taped by Mr. Charles Allen, so that is the only way—I can't remember after being in jail almost 40 months.

Chairman ROTH. Let me ask you again. On or about October 2, 1978, did you ask Mr. Allen to get a 22 automatic with a silencer? Subsequently he said you said you needed five guns, and you told him, according to Mr. Allen, that they were for people downtown, which "I knew meant Angelo Bruno and his people."

Do you have any recollection of such a conversation?

Mr. ZEITZ. Mr. Chairman, on advice of counsel, I have discussed this matter with my client——

Mr. NATALE. Senator, on the advice of my counsel, I can't answer that question.

Chairman ROTH. On what grounds?

Mr. ZEITZ. Mr. Chairman, I have discussed this matter with my client, and I have advised him and it is his desire at this point not to respond to that question on the bases that that question, in his opinion, and I cannot disagree with him, goes beyond the scope of what we understand this hearing to be about, and consequently he is not going to answer that question.

Chairman ROTH. Well, I would just advise Mr. Natale and his counsel that the Chair overrules such objection and would ask once more the witness whether he will answer or not answer the question?

Mr. NATALE. I will not answer it, Senator.

Senator RUDMAN. Mr. Chairman?

Chairman ROTH. Senator Rudman?

Senator RUDMAN. It is important for the record to show that the client has full comprehension of this act. It has been shown with strong evidence that is before this subcommittee as to violence with use of firearms and it is a legitimate question and counsel knows it is a legitimate question, and I intend to pursue refusal to answer.

That question is well within the scope of this evidence, derived from earlier testimony, and I want you to consider again whether or not you will answer that question.

[Pause.]

Chairman ROTH. The Chair would point out that time is slipping by, and would request you to answer the question.

Mr. ZEITZ. You have to understand that Mr. Natale is about 3½ hours away from my office, and in order to meet with him I have to go to the prison. This has been my first meeting with my client since being advised he would be here pursuant to this grant of immunity, so I would appreciate if the Senator would indulge me a little longer.

Senator RUDMAN. Just a moment. How long has Mr. Natale known he was going to testify here today?

Mr. ZEITZ. I think in order to respond to that question I will have to answer the following way:

Mr. Natale asserted his privilege under the fifth amendment. It was just a little while ago I received a copy, a signed copy of this order indicating that the immunity had been given and that we have a valid order.

Now, the order is dated June 18. Mr. Natale would not have known as such time that this order came into being and that his situation was such that he would be here.

Senator RUDMAN. I think the chairman should show Mr. Natale has known for some time. We can insert the date when he would appear without immunity and for counsel to state he had short notice—I may have had short notice—but Mr. Natale did not have short notice, and I think, Mr. Chairman, that we can consume a lot of time with this, and either he will answer the question or he won't answer the question.

Mr. ZEITZ. Let me respond to that.

Senator RUDMAN. I don't want you to respond to that, I want you to consult with your client. Under the rules of the subcommittee we have given you more than enough latitude. You can consult with your client, and if you want a certain legal ground, fine, but I don't want to hear any more of your reason.

You talk to your client. I want him to. If he does not want to answer, fine, we will go from there, Mr. Zeitz.

Mr. NATALE. I refuse to answer, Senator.

Chairman ROTH. Do you understand that you have been instructed to answer this question?

Mr. NATALE. Yes, I do, Senator.

Chairman ROTH. And do you understand that in view of your refusal to testify in response to this subcommittee's grant of immunity, that I believe the record would show a finding of civil or criminal contempt.

Such a finding could subject you to additional incarceration beyond that which you have.

I must advise you such action on your part will not be taken lightly by a subcommittee here.

Mr. NATALE. And I don't take it lightly either. I think this panel has gone beyond the scope of its investigation to answer Senator Rudman. You heard Charlie Allen.

If I may take one moment, he is a complete liar—he tells 20 percent truth and 80 percent lies. I have 27 years already. They are trying to give me more time on the same case. I didn't come here looking for extra time. But on something like that, I think it is a trap for me. I want to answer the best I could.

Right now I cannot go beyond that there.

Chairman ROTH. I have further questions that I would like to ask you.

During the period that Mr. Allen served with you, did you meet with Bruno on a regular basis, usually for lunch in the Cherry Hill or Philadelphia area?

Mr. NATALE. A regular basis meeting everyday? I am not trying to be cute here.

Chairman ROTH. Let me ask you this question:

Did you meet with Bruno?

Mr. NATALE. Yes.

Chairman ROTH: And how often?

Mr. NATALE. Maybe twice a week.

Chairman ROTH. So you did meet on a weekly basis?

Mr. NATALE. Yes.

Chairman ROTH. Did Mr. Bruno give you orders on union matters during these luncheons?

Mr. NATALE. Never.

Chairman ROTH. He never gave you any instructions?

Mr. NATALE. Never. I will take a polygraph, see if Charlie Allen will take a polygraph.

Chairman ROTH. Did you discuss union matters in any way?

Mr. NATALE. Senator, none whatsoever.

Chairman ROTH. Did you ever meet with the union's international president, Ed Hanley?

Mr. NATALE. Many times. He was my boss. He signed my paychecks.

Chairman ROTH. Did Mr. Hanley ever tell you at any of these meetings that he was going to get control of the pension fund money and would begin loaning it out like the Teamsters?

Mr. NATALE. Never.

Chairman ROTH. Did he ever discuss the pension fund and how they were handled?

Mr. NATALE. Never, and I will take a polygraph test on all of that also.

Chairman ROTH. Senator Nunn?

Senator NUNN. I just have a couple of questions.

Do you know or have you known Mr. Phillip Moscoto?

Mr. NATALE. Phillip Moscoto—no.

Senator NUNN. Do you know or have you known Anthony Accetturro?

Mr. NATALE. No.

Senator NUNN. Do you know or have you known Joseph Covello?

Mr. NATALE. Not by those names, no.

Senator NUNN. Have you known or do you know Anthony Russo, I understand he is deceased, but have you known him?

Mr. NATALE. No.

Senator NUNN. Do you know or have you known Charles "Pinky" Costello?

Mr. NATALE. No, Senator.

Senator NUNN. Do you know or have you known Mr. Samuel De Calvancante, known as "Sam the Plumber"?

Mr. NATALE. Only by what I read in the paper about him.

Senator NUNN. To the best of your knowledge, you have never met any of those people?

Mr. NATALE. Not to the best of my knowledge. I will take a polygraph.

Senator NUNN. You don't know any of them personally?

Mr. NATALE. No.

Senator NUNN. Do you know Mr. Scarfo?

Mr. NATALE. Yes.

Senator NUNN. Do you know his occupation?

Mr. NATALE. I think he was bartender at one time.

Senator NUNN. You don't know what he did?

Mr. NATALE. When he did?

Senator NUNN. What period of time?

Mr. NATALE. A few years ago in Atlantic City, he was tending bar at the 500 Club.

Senator NUNN. During what period of time have you known him?

Mr. NATALE. I have known him exactly for the last 10 or 12 years.

Senator NUNN. During that whole time, was he a bartender, to the best of your recollection?

Mr. NATALE. Yes, that is what I know of him.

Senator NUNN. Thank you.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Mr. Natale, tell us a little bit, if you know about who the leading organized crime figures are in and around the area that you grew up in and the area that you operated your business in, if you know?

Mr. NATALE. I don't know who the organized crime figures are.

Senator RUDMAN. Well, who are some of the crime figures? Was Angelo Bruno a crime figure?

Mr. NATALE. He was an adorable man.

Senator RUDMAN. And Nicky Scarfo?

Mr. NATALE. He is a fine little guy. That is all I know about it.

Senator RUDMAN. So what you are telling us is that the various evidence you heard through the course of your own trial and that has been testified to be these people, that all these wiretaps and informants are all lying?

Mr. NATALE. I didn't say that, Senator.

Senator RUDMAN. What are you saying?

Mr. NATALE. What I knew, me. What I read in the papers. I am saying what I knew.

Senator RUDMAN. And you ran a little restaurant there?

Mr. NATALE. Me and a partner of mine.

Senator RUDMAN. For how long?
Mr. NATALE. For a few years.
Senator RUDMAN. How large a restaurant?
Mr. NATALE. Small, 40 seats.
Senator RUDMAN. What year did you become head of the union?
Mr. NATALE. The year, exactly?
Senator RUDMAN. Yes, sir.
Mr. NATALE. I think it was in 1968.
Senator RUDMAN. During the time you were head of the union and you might be wrong in the date, but that is approximate?
Mr. NATALE. Yes.
Senator RUDMAN. We understand, we are not holding you to the exact date.
Around 1968, you still had your restaurant at the time you assumed the leadership of this union?
Mr. NATALE. That was after. The restaurant was the last 3 years.
Senator RUDMAN. And did you earn a lot of money in that restaurant?
Mr. NATALE. Did I earn a lot of money?
Senator RUDMAN. Yes.
Mr. NATALE. Not at that time. In fact we didn't get too much out of the place. Now I understand he is doing well.
Senator RUDMAN. How about the union job you had? What did that pay?
Mr. NATALE. My union job?
Senator RUDMAN. Yes, sir.
Mr. NATALE. I made $18,500.
Senator RUDMAN. Any other bonuses?
Mr. NATALE. No bonus. I also earned the equivalent, lets' say, about $15,000 out of the international on a salary basis, depending on what I did.
Senator RUDMAN. So your income from the union was $30,000?
Mr. NATALE. $30,000 or $35,000.
Senator RUDMAN. No other source of income?
Mr. NATALE. No.
Senator RUDMAN. Other than the restaurant?
Mr. NATALE. The restaurant, I didn't take any money out of. It is a shame I went to jail. He got lucky.
Senator RUDMAN. Where did Ed Hanley live?
Mr. NATALE. Out in Chicago.
Senator RUDMAN. Did he have any other homes?
Mr. NATALE. In Palm Springs.
Senator RUDMAN. Did you buy a home in Palm Springs?
Mr. NATALE. Yes.
Senator RUDMAN. Could you tell us about the home you bought in Palm Springs? How many rooms in the house?
Mr. NATALE. Why, let's see, how many bedrooms, one, two, three—three bedrooms, living room, bathroom, you know, normal home.
Senator RUDMAN. Did it have much land around?
Mr. NATALE. It was part—sort of a condominium, near a golf course.
Senator RUDMAN. And you also, of course, had a home in New Jersey during this time?
Mr. NATALE. Yes.

Senator RUDMAN. Where was that home?
Mr. NATALE. In New Jersey.
Senator RUDMAN. What kind of home was that?
Mr. NATALE. Four-bedroom home.
Senator RUDMAN. What was that worth, can you tell us?
Mr. NATALE. My home in New Jersey at that time?
Senator RUDMAN. Yes, sir.
Mr. NATALE. Well, I would say about $45,000.
Senator RUDMAN. What about the home in Palm Springs?
Mr. NATALE. Maybe $95,000 or $100,000.
Senator RUDMAN. And you were able to support this on your salary?
Mr. NATALE. On my salary.
Senator RUDMAN. Why did you buy the home in Palm Springs?
Mr. NATALE. I bought a home in Palm Springs because I wanted to buy an investment so that I would end up with something when I finished my union activities.
Senator RUDMAN. Any other real estate owned by you?
Mr. NATALE. Real estate?
Senator RUDMAN. Yes, sir.
Mr. NATALE. No.
Senator RUDMAN. Any other property owned by you or your wife?
Mr. NATALE. I don't think she owns anything without my knowing.
Senator RUDMAN. Coming back to my earlier question, in all the years that you conducted business as secretary-treasurer of that union, ran a restaurant down there, you never heard a word from anyone concerning the fact that Angelo Bruno might be involved in La Cosa Nostra?
Mr. NATALE. No.
Senator RUDMAN. You never heard that?
Mr. NATALE. No.
Senator RUDMAN. Never heard Nicky Scarfo might be?
Mr. NATALE. No, we were all born and raised together, we don't talk that way about one another.
Senator RUDMAN. You never heard from anyone—I mean you want to leave your testimony before this subcommittee, and I want to nail this down, Mr. Natale, to your own knowledge, in all the years you were involved in this business, which by numbers rule is kind of a tough business, you would not deny that?
Mr. NATALE. It is a tough business. Certainly it is.
Senator RUDMAN. It is a tough business——
Mr. NATALE. I am fighting for my life. I have to watch what I agree with here, not trying to give you a hard time.
Senator RUDMAN. I am sure you are not.
You ran this restaurant all those years. You want your testimony before this subcommittee. You heard nothing about the fact that people like Nicky and Angelo were involved in organized crime and other hoodlum activities?
Mr. NATALE. I read in the great free press.
Senator RUDMAN. Which you didn't believe?
Mr. NATALE. Of course not. I don't think you believe everything.
Senator RUDMAN. No, but I believe that.
Mr. NATALE. Fine.

Senator RUDMAN. Mr. Chairman, I don't see any purpose in any further questioning on my behalf, because that last series of questions indicates that evidently we don't have a meeting of minds, so I think I will let it go right there.

Chairman ROTH. I would point out that in view of the fact that these hearings will be continued later this year when we will resume a review of various locals, that I very likely will direct you be returned on that occasion, whereupon you will be afforded one further opportunity to respond pursuant to the grant of immunity.

Should you resist on that occasion, we will seriously consider the sanctions to be sought in light of your refusal to testify.

Senator NUNN. At this point in the record, could we insert your opening statement again, particularly the three goals that you set forth as the goals of this hearing. They are on the first two pages of your statement, and also could we insert for the record the scope of the hearing as defined in the subcommittee authorization?

Chairman ROTH. Without objection, so ordered.

Senator NUNN. I will call both of those to counsel's attention.

Mr. ZEITZ. I cannot hear you.

Senator NUNN. The opening statement of Senator Roth, as well as the subcommittee authorization setting forth the scope of the hearing.

[The material requested follows:]

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. Today marks the opening of several days of hearings to be held over the course of the year and into next year during which this subcommittee will closely review some of the activities of the Hotel Employees and Restaurant Employees International Union—HEREIU.

These hearings, in one sense, complement the subcommittee's investigations in the late 1970's and early 1980's of three other large international unions—the Teamsters, the Laborers, and the Longshoremen. Each of these unions, as our hearing records have clearly established, has been riddled with corruption and mismanagement at their highest levels.

In the case of the Teamsters, it was Jimmy Hoffa and now Roy Lee Williams and the million dollar losses sustained by the Central States Pension fund:

With the Laborers, it was crime bosses Raymond Patriarca, Santos Trafficante, Anthony Accardo, and the Laborers International President, Angelo Fosco, who were reportedly engaged in efforts to defraud the union's health and welfare funds;

And with the Longshoremen, the FBI's Unirac investigation unveiled massive organized crime involvement and corruption in most of our East Coast and Gulf Coast ports. The infiltration of organized crime in these unions is now a matter of historical record although many law enforcement officials doubt that it has abated despite numerous recent indictments and convictions.

In focusing our investigative resources on the Hotel Employees Union, the subcommittee has not acted without guidance as to the problems confronting this union relative to others in the United States. Law enforcement authorities throughout the United States have constantly expressed their concerns with this union. Indeed, the Department of Justice has characterized the Hotel Workers leadership, along with the leadership of the Teamsters, the Laborers and the Longshoremen, as the most corrupt in the United States.

Our investigation has sought to unravel some of the relationships that underlie this union not only at the International Level but also at the local level. Has the union been infiltrated by organized crime? We intend to explore this and we will approach it by looking at a variety of locals. We want to get the most detailed picture of how this union may have been affected by organized hoodlum influences, and the economic incentives that drive these corrupting influences.

Our goal in these hearings is threefold:

First, consistent with the legislative mandate of Senate Resolution 333, this subcommittee is charged with the responsibility to determine how organized

crime affects our society and what illegal or improper labor practices currently prevail;

Second, it is our objective to measure the success of our Federal law enforcement agencies against our factual findings of labor racketeering;

And third, we seek to explore any reasonable legislative alternatives that might provide relief from what has become, in the case of a few large unions, a siege upon the union-represented working class of America, whose welfare and pension funds now represent a form of workmen's security in the billions of dollars.

The integrity of these unions and their funds must not be compromised by either corruption or mismanagement: if tougher legislation is required to insure this integrity, we must provide it. We must protect the assets of these unions for the rank and file.

This subcommittee in the recent past, primarily through the efforts of Senators Nunn and Rudman, has sought wide-ranging legislative reform through the introduction of the Labor Management Racketeering Act of 1981. These hearings will continue to build the type of legislative record that supports the type of reform sought by S. 1785. In addition, these hearings will focus on potential legislative gaps in the Labor Management Reporting and Disclosure Act, particularly with respect to the definition of labor organization and the ability of union officials to maintain their positions once they have refused to respond to questions relating to their fiduciary responsibilities.

[The subcommittee's authorization follows:]

(c) (1) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilizes such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking facilities to carry out criminal objectives;

(E) riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immedi-

ate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States;

(F) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

(iii) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationship;

(G) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owed or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(H) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs;

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(2) Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(3) For the purpose of subsection, the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1982, through February 28, 1983, is authorized, in its, his, or their discretion (A) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (B) to hold hearings, (C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (D) to administer oaths, and (E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the chairman, by deposition.

(4) All subpenas, contempt proceedings, and related legal processes of the committee and its subcommittees authorized under S. Res. 361 of the Ninety-sixth Congress, second session, and S. Res. 57 of the Ninety-seventh Congress, first session, including the subpena enforcement and contempt proceeding against William Cammisano, are authorized to continue.

(d) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1983.

(e) Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

Chairman ROTH. The subcommittee will recess for 10 minutes while we vote, but you are excused at this time.

[Brief recess].

[Members present after the taking of brief recess: Senators Roth, Nunn, and Rudman.]

Chairman ROTH. The subcommittee will be in order.

Our next witness will be Mr. Nicodemo Scarfo of Atlantic City, N.J.

Given the amount of testimony introduced before the subcommittee relating to Mr. Scarfo, the subcommittee has deemed it appropriate and necessary to call Mr. Scarfo personally and to provide him with the opportunity to respond to the evidence now before us.

Mr. Scarfo's appearance is pursuant to a subcommittee subpena.

Mr. Scarfo, if you would please stand and raise your right hand.

Do you swear the testimony you are about to give before this subcommittee is the truth, the while truth, and nothing but the truth, so help you God?

Mr. SCARFO. I will.

Chairman ROTH. Please be seated.

TESTIMONY OF NICODEMO SCARFO, ACCOMPANIED BY ROBERT SIMONE, COUNSEL

Chairman ROTH. I would ask you, Mr. Scarfo, in addition to giving your name and address, that you introduce your counsel.

Mr. SCARFO. Mr. Robert Simone.

Chairman ROTH. And where does he practice?

Mr. SCARFO. He practices in Philadelphia.

Chairman ROTH. Mr. Scarfo, where do you currently reside?

Mr. SIMONE. Your Honor, may I make a brief explanation of Mr. Scarfo's current status and position that I promise will be brief.

Chairman ROTH. With the assurance it will be brief, we will permit it.

Mr. SIMONE. He is presently here pursuant to the subpena. I had some communications with counsel for the subcommittee and at that time I advised counsel for the subcommittee that Mr. Scarfo would be invoking his rights under the fifth amendment to the U.S. Constitution and possibly under the fourth amendment to the U.S. Constitution.

The reason for the explanation is this: That Mr. Scarfo is involved in pertinent procedures in the third circuit court of appeals, in which we are contesting the legality of a search of his premises in relationship to a case that is pending on appeal.

Certain records were taken from a drawer in his apartment, and that search is now the subject of a decision that is pending in the court of appeals. It has already been argued, so I want to explain why we would be possibly invoking the fourth as well as the fifth amendment rights.

Also, since he received the subpena, certain agents of the FBI came with a search warrant, not to his home but to the office of Scarf, Inc., and you have already heard testimony that Mr. Scarfo spends a great

deal of time in there, and with this search warrant, Mr. Scarfo's sister, who lives in the same building, Mr. Scarfo's mother, Mr. Scarfo, and others were not permitted to remain while the search was going on. They were taken out of the building.

We believe, although we cannot prove and have heard nothing to the contrary, that the place was at that time wired or bugged, and as a result, Mr. Scarfo and myself and his attorney believe it possible that his sixth amendment right to counsel may have been infringed upon. I just wanted to explain that to the panel.

I understand he also does not have any immunity.

Chairman ROTH. First, I confirm that Mr. Scarfo does not have immunity, but we intend to proceed with the questions and of course you can take appropriate action, and we will review your objection at that time.

Mr. Scarfo, where do you currently reside?

Mr. SCARFO. 26 North Georgia Avenue, Atlantic City, N.J.

Chairman ROTH. Have you ever been convicted of a crime?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Chairman ROTH. What do you do for a living?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Chairman ROTH. Do you know Frank Gerace, the president of local 54 of the Hotel and Restaurant Employee Union?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. What has been your relationship with Frank Gerace?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Have you ever discussed local 54 business with Frank Gerace?

Mr. SCARFO. Same answer, sir.

Mr. SIMONE. Excuse me, he is giving this answer, the same answer just to save time unless you prefer he read his fifth amendment rights.

Chairman ROTH. Are you saying irrespective of what the question——

Mr. SIMONE. No, not irrespective, but when he says same answer, he is referring to his fifth amendment right alone.

Chairman ROTH. Did you know Angelo Bruno and Phil Testa?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. What was your relationship with Bruno and Testa?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Do you have any knowledge concerning the identity of anyone responsible for the murder of Angelo Bruno?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Do you have any knowledge concerning the identity of anyone responsible for the murder of Phil Testa?

Mr. SCARFO. Same answer.

Chairman ROTH. Why did you maintain the phone numbers of Frank Gerace and Sue Holland in a coded system of records?

Mr. SCARFO. I refuse to answer the question on the grounds of the fourth and fifth amendments of the U.S. Constitution.

Chairman ROTH. Did you know Robert Lumio?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Chairman ROTH. What was your relationship with Robert Lumio?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Did you ever discuss local 54 business with Robert Lumio?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Do you know any of the following individuals associated with local 54? Al Diadone, vice president; Eli Kirkland, or Karlos LaSeine (phonetic), grievance manager?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Do you know Frank Lentino?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. What has been your relationship with Frank Lentino?

Mr. SCARFO. Same answer.

Chairman ROTH. Did you ever have any discussion with Phil Testa concerning the appointment of consigliere for the Bruno family?

Mr. SCARFO. Same answer.

Chairman ROTH. Do you know any members of the Genovese and Gambino families?

Mr. SCARFO. Same answer.

Chairman ROTH. Have you filed income tax returns since 1975?

Mr. SCARFO. Same answer, sir.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. I wonder if you might tell us about the trial you underwent in 1980, tell us what you were charged with?

Mr. SCARFO. I was charged with murder, on the strength of the Joe Salerno testimony, and I was also found not guilty.

Senator RUDMAN. Were you acquitted?

Who else was tried with you? Can you tell us that, please?

Mr. SCARFO. Lawrence Merlino and Phil Leonetti, which were also acquitted.

Senator RUDMAN. And the name of the deceased again, the man who was killed by someone?

Mr. SCARFO. Vincent Falcone.

Senator RUDMAN. Could you spell that, please?

Mr. SCARFO. F-a-l-c-o-n-e.

Senator RUDMAN. Was he a friend of yours?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Senator RUDMAN. How old are you, Mr. Scarfo?

Mr. SCARFO. 53.

Senator RUDMAN. And where were you born?

Mr. SCARFO. Brooklyn, N.Y.

Senator RUDMAN. How long have you had the business of Scarf, Inc.? How long have you had that business?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Senator RUDMAN. Let me ask counsel to have Mr. Scarfo advise me, or advise him again, that did he get the instruction correctly? I asked him what time—did he understand——

Mr. SIMONE. The question presumes something not a fact, sir. Mr. Scarfo is not related to Scarf. It is his nephew, that was the testimony.

Senator RUDMAN. I see.

I wonder if you might tell me how long the gentleman on your left, Mr. Simone, has represented you as your counsel?

Mr. SCARFO. Four or five years, sir.

Senator RUDMAN. Do you own any real estate?

Mr. SCARFO. I invoke my right under the fifth amendment of the U.S. Constitution and decline to answer the question.

Senator RUDMAN. Well, are you currently employed?

Mr. SCARFO. Same answer, sir.

Senator RUDMAN. Do you have a safety deposit box anywhere?

Mr. SCARFO. Same answer, sir.

Senator RUDMAN. And did you see Ralph Natale this morning as he came into the building?

Mr. SCARFO. Yes, sir.

Senator RUDMAN. Is he a friend of yours?

Mr. SCARFO. Same answer, sir.

Senator RUDMAN. How long have you known Ralph Natale?

Mr. SCARFO. Same answer, sir.

Senator RUDMAN. I think the answer is replete here.

Chairman ROTH. Mr. Scarfo, I have to state very plainly and bluntly I am disappointed that you have answered none of the questions propounded either by Senator Rudman or myself.

You have sat here this morning and your name and involvement in matters under investigation by this subcommittee have been prominently mentioned and discussed. And we think it is important that you answer these questions.

The subcommittee is going to be continuing to proceed with these investigations, and we will take your taking of the fifth and other objections under advisement, and recognize that you have a constitutional right to take the fifth amendment where it incriminates you but very candidly with any number of these questions are extraordinarily difficult to see why this action is appropriate.

This will conclude the questioning of you, Mr. Scarfo. As I said, we will perhaps be back in contact with you.

The subcommittee is in recess until tomorrow morning at 10 a.m.

[Whereupon, at 2:40 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, June 23, 1982.]

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

WEDNESDAY, JUNE 23, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met, at 10 a.m., in room 6226, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; and Senator Warren B. Rudman, Republican, New Hampshire.

Members of the professional staff present: S. Cass Weiland, chief counsel; Eleanore J. Hill, chief counsel to the minority; Kathy Bidden, chief clerk; Howard Shapiro, staff counsel; Roy Geffen, detailed employee from the U.S. Postal Service; Jack Key, chief investigator to the minority; and David Faulkner, detailed employee from the Federal Bureau of Investigation.

[Senators present at commencement of hearings: Senators Roth and Rudman.]

Chairman ROTH. The subcommittee will be in order.

Our next witness is Frank Gerace, who is currently president of local 54 of the Hotel Employees & Restaurant Employees of Atlantic City, and also served as a trustee for the International Health and Welfare Fund.

Mr. Gerace has held an official position in local 54 for the past several years. Mr. Gerace's appearance today is pursuant to a subcommittee subpena.

Mr. Gerace, would you please come forward?

Stand and raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GERACE. I do.

Chairman ROTH. Please be seated.

TESTIMONY OF FRANK GERACE, CURRENT PRESIDENT OF LOCAL 54, HOTEL EMPLOYEES & RESTAURANT EMPLOYEES OF ATLANTIC CITY, ACCOMPANIED BY BERNARD KATZ AND RONALD KIDD, COUNSELS

Chairman ROTH. Mr. Gerace, would you first give your name and address and advise us as to whom your counsel is?

Mr. GERACE. Frank Gerace, 20 North Nassau, Margate, N.J. My counsel for the union is Bernard Katz, private counsel is Ron Kidd.

Chairman ROTH. Are they members of the Pennsylvania Bar?

Mr. GERACE. Yes, they are.

Chairman ROTH. At this time I will ask our chief counsel, Mr. Weiland, to propound the questions.

Mr. WEILAND. Mr. Gerace, we are interested in, among other things, union business practices, the handling of union funds, and the methods by which members assume and continue to hold office.

I would like to ask you first how long you have held your current position with local 54 and how did you first become affiliated with the union?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Do you hold a position with the International Hotel & Restaurant Workers Union?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Mr. Gerace, why did you appoint Robert Lumio as secretary treasurer of the local?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Why did you appoint Al Daidone as vice president of the local?

Mr. GERACE. I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Do you know a man named Larry Smith?

Mr. GERACE. I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Mr. Gerace, we understand that Larry Smith served as a consultant for the North American Dental Plan, and that that is the plan that was associated with your local. Has Mr. Smith ever paid you any money?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. Is that on the advice of both your attorneys?

Mr. GERACE. On the advice of Ronald Kidd.

Mr. WEILAND. Does he represent you personally?

Mr. GERACE. Yes, he does.

Mr. WEILAND. What about Mr. Katz?

Mr. GERACE. He represents the union.

Mr. WEILAND. He is not here representing you personally?

Mr. GERACE. No, he is here representing the local.

Mr. WEILAND. How long have you known Ralph Natale?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. How about Nicky Scarfo, how long have you known Mr. Scarfo?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Mr. WEILAND. That is all I have.

Chairman ROTH. Mr. Gerace, have you been advised to answer no to questions relating to local 54.

Mr. GERACE. That is right, sir.

Chairman ROTH. Any questions relating in any way to your activities may incriminate you?

Mr. GERACE. I have been advised by my attorney not to answer.

Chairman ROTH. Mr. Gerace, some time ago Mr. Meany, head of the AFL–CIO, testified as to the responsibilities of union officials.

Mr. Gerace, you do admit you are president of local 54?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Chairman ROTH. Mr. Gerace, it is common knowledge that you are president of local 54.

Just let me point out what Mr. Meany had to say. He said that:

> Talking about the importance of keeping the labor movement or any other segment of our society free from any and all corrupting influences, he said that this means all officials of the AFL–CIO, and its affiliates, could frequently and without reservation, answer all relevant questions asked by proper law enforcement agencies, legislative committees, and other public bodies seeking fairly and objectively to keep the labor movement free from corruption.

He pointed out that:

> It is a policy of the AFL–CIO that if a trade union official decides to invoke the fifth amendment for his personal protection, and to avoid scrutiny by proper legislative committees, law enforcement agencies or other public bodies, and to allege corruption on his part, he has no right to continue to hold office in his union.

Would you agree with that statement of policy of Mr. Meany?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Chairman ROTH. How can a question on policy tend to incriminate you?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Chairman ROTH. Mr. Gerace, I was just pointing out that the constitutional right of pleading the fifth amendment is an important one, but it is limited to those areas where you are involved, where it may protect your personal rights, but for misuse and abuse of the privilege to try to extend it so that you answer no questions, as far as I am concerned, we will take this under advisement, we are going to be holding later hearings, and I expect that we will want your presence here again at that time, but at this time I have no further questions.

Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman.

Mr. Gerace, I just want to ascertain on the advice of your counsel, the purpose for which you are going to use the privilege. To go a bit

beyond Chairman Roth, I want to ask you a few additional questions.

First, I want to ask you whether or not you are willing to answer some questions about your personal holdings, that have no relation whatsoever to the union activities?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Senator RUDMAN. I wonder if you would be willing to tell this subcommittee what real estate you own in your own personal name, not in the union's name?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Senator RUDMAN. Let's see if we can make it simpler.

Can you tell me whether or not you are married?

Mr. GERACE. Yes.

Senator RUDMAN. Do you have any children?

Mr. GERACE. Yes.

Senator RUDMAN. Does your wife have any relationship with the union that you represent?

Mr. GERACE. Relying on the advice of my attorney, I refuse to answer the question and invoke my right against self-incrimination under the fifth amendment of the Constitution of the United States.

Senator RUDMAN. Mr. Katz, you represent this union?

Mr. KATZ. Yes, sir

Senator RUDMAN. You are not under oath here this morning, and I won't suggest to the chairman we put you under oath because you are here as counsel. But you have had some correspondence with this subcommittee and since we have you here today, I am going to discuss some things with you and you will not be under oath, unless you want it under oath.

Mr. KATZ. Not particularly, but any way you want it.

Senator RUDMAN. Out of the ethical precedence, we ought not place him under oath at this time, but may be calling him back subsequently as a witness.

Mr. Katz, on the 24th of August 1981, you wrote to Mr. Eberhardt concerning this subcommittee's investigation. I have a copy of that letter and I am sure you are familiar with it.

Mr. KATZ. I am not. If you could refresh my recollection or show it to me, I will be obliged.

Senator RUDMAN. I will read the whole letter to you.

This letter will confirm our conversation on Wednesday, August 19th, 1981. At that time, you advised me that compliance with your subpena was being arranged directly with general counsel for the International Union—at least insofar as those records relating to the International Health, Welfare and Pension Plans were concerned.

Are you familiar with that letter now?

Mr. KATZ. I recall the subject matter.

Senator RUDMAN. I will continue to read it. I am only interested in one part, but it is not that long.

You continue:

You further advised me, at that time, that the definition of the data to be subpenaed was being revised and narrowed, and that you would be sending out a

supplemental letter which would simplify and make more concise any information sought which was not in fact being supplied by your arrangement with Mr. Reynolds.

In accord with your advice, we are taking no steps to compile any further data until we have heard from you and examined the contents of your explanatory communication. I assume that the September 14, 1981 date to which reference is made in the original subpena may be treated as generally postponed until the arrangements have been confirmed further.

Now I will get to the part of the letter I am really interested in this morning, in light of Mr. Gerace's testimony, or lack thereof, to be more accurate.

Permit me in this communication to reiterate some of the comments which I made in our telephone discussion. You should recall that I specifically inquired as to what had given rise to these subpenaes and you seemed reluctant to divulge any particular details. My inquiry was motivated by more than academic curiosity. As counsel for Local 301, I have certain responsibilities and fiduciary obligations as do its officers and any trustees that may serve on any particular Funds. It is important that we know whether or not there is any indication that there are problems which should be remedied. We have a meaningful duty to the beneficiaries of our institutions and to the men and women who depend upon our representation and protection. If you or your committee or any of your colleagues have any reason to believe that any problems exist, it is essential that you alert us so as we may be in a position of taking whatever remedial action is possible.

In the final analysis, it would seem to be your obligation as a public servant to share with us any data that would aid and assist us in making certain that our members and the employees represented by the organization, or in a status as beneficiaries of the various Funds, are at all times fully protected and in a position of receiving the benefits which we have gained for them.

Very truly yours, Bernard N. Katz.

Mr. KATZ. That certainly sounds like me.

Now, do you have a question, Senator Rudman?

Senator RUDMAN. Yes, I do.

I would like to know what your fiduciary responsibility is to this union, because I fully intend to call you as a witness at subsequent hearings when you have notice that you will be called as a sworn witness. But I want to know what fiduciary responsibility is as an attorney?

Mr. KATZ. The fiduciary responsibility is to act in the best interests of the organization and its members, and at all times, not only have I so done, but I have attempted to get various agencies and committees, such as this one, to assist me and aid me, and I have met nothing but obstacles.

On the contrary, to attempt to investigate and unearth any information which could be usable for the protection of the institution, I have concluded that subcommittees such as this one are media hypes and no more.

Senator RUDMAN. You are entitled to your opinion.

Mr. KATZ. I think the record of what you have been doing bears that out and the manner of your questioning bears that out, and the refusal of your staff to assist those interested in the labor movement certainly bears that out.

Senator RUDMAN. Fine, you are entitled——

Mr. KATZ. And I welcome a subpena at any time before any agency, before any committee in any forum. That is an outrage.

Senator RUDMAN. I assume you, Mr. Katz, would testify fully.

Mr. KATZ. Absolutely.

Senator RUDMAN. Now, since you have an interest in the union, and I will take you at your word, and you are entitled to your opinion, do you think we might recess and you would convince Mr. Gerace to tell us about his business with the union?

Mr. KATZ. He is not my client. I represent the union. There are times when because of very, very obvious gymnastics on the part of others who are not interested in the welfare of the labor union, that it is necessary for various union officials to seek private counsel to see whether or not that this charge of improper behavior, vis-a-vis the gymnastics that—media hypes that this subcommittee institutes, are going to create possible personal jeopardy. In that instance, I step back and have nothing to do with the representation of the individual.

Senator RUDMAN. And as counsel with a fiduciary relationship with this union, are you disturbed by the fact this man refuses to answer any questions to this subcommittee this morning?

Mr. KATZ. Not only not disturbed, but frankly, Mr. Gerace is one of the highest examples of integrity in the representation of the welfare of individual members I have encountered in 30 years of representing the trade union movement. I know, and I am satisfied that Mr. Gerace's entire life as a labor leader is an exemplary model of integrity, and I would be happy if our public servants, including the Senators, reflected the same type of morality.

Senator RUDMAN. You are a good lawyer.

Mr. KATZ. That is not being a lawyer, that is being sincere.

Senator RUDMAN. You are doing a pretty good job with media hype.

I would like to ask Mr. Gerace, if he is such a fine public servant, to reconsider.

Are you willing to answer those questions, Mr. Gerace?

Mr. GERACE. No.

Senator RUDMAN. Mr. Chairman, I think that the record ought to show that we have been studying the records and pension funds and dealings of Mr. Gerace and his predecessors of this union, and there will be a great deal more disclosed before these hearings are over.

I think we will probably consider granting Mr. Gerace immunity, use immunity and get him back here, and I think we would like to have Mr. Katz back here, and I see no useful purpose in continuing this line of questioning until we can put these witnesses fairly under oath, including Mr. Katz.

Mr. KATZ. Let me assure you that I will be happy to return, to return under oath.

Let me further state to the Senator that it would behoove the best interests of the members of the union were this subcommittee to instruct its staff people to aid and assist us in making known to us just what it is complaining about and what it thinks the problems are so as we may take steps to which I refer in that letter. I have yet to get a single indication from any member of this subcommittee or its staff as to what if any problems exist in the functioning of the union.

Senator RUDMAN. Mr. Chairman, let me make one response to that, and let me say to Mr. Katz, making no reflection on you personally, that my experience is that it is not a good idea to put the fox in the chicken coop.

Mr. KATZ. That is a very pretty statement, but it does not mean anything.

Senator RUDMAN. It should mean something to you.

Mr. KATZ. It does not, and I will stand on my dedication to an honest and dedicated trade movement in the face of anything this subcommittee says, and any time you want to inquire of me further, please just call and I will be happy to be here. You don't even need a subpena.

Chairman ROTH. Well, I think this has gone far enough.

I will just point out to you, Mr. Katz, that we will make available yesterday's transcript.

Mr. KATZ. Thank you, sir.

Chairman ROTH. That will give you a basis of what this subcommittee is concerning itself with, and we will make certain to Mr. Gerace, as well as yourself, the opportunity to come back and testify before us.

Mr. KATZ. I will look forward to receiving a copy of the transcript from Mr. Weiland.

Chairman ROTH. The witness is excused.

Mr. KATZ. Do you gentlemen have anything more of me?

Chairman ROTH. You are all excused.

The chief counsel wants to put certain things in the record.

Mr. WEILAND. Mr. Chairman, if we may, as exhibits from yesterday's hearing, I would like to insert a letter from the New Jersey Commission of Investigation, which includes a decoded telephone list, which was confiscated from Nicodemo Scarfo, and also a newspaper article from the Atlantic City Press dated May 1, 1982.

Chairman ROTH. Without objection.

[The documents referred to were marked "Exhibits No.'s 6 and 7," for reference; exhibit 6 is retained in the files of the subcommittee; exhibit 7 follows:]

EXHIBIT NO. 7

The Press

Serving Southern New Jersey

ATLANTIC CITY, N.J., SATURDAY, MAY 1, 1982

The Prisoner of N. Georgia Avenue

'He's just a very normal, natural, fun-loving person. He loves a joke. He loves to rib people. I think anyone who met him under normal circumstances would like him,' his lawyer, Harold Garber, says.

By MICHAEL CHECCHIO
Press Staff Writer

ATLANTIC CITY — He lives quietly in a modest apartment on North Georgia Avenue in the Italian-American section of the city.

When he ventures outside his apartment, how infrequently, he does not stray very far. Once a week, he may dine at Angeloni's restaurant on the corner, a few yards from his home.

Most often, he is accompanied outside either by his nephew or a close friend. Occasionally, he goes to the two casinos closest to his home, Playboy and Caesars Boardwalk Regency. Sometimes he takes in a boxing match.

He is a fight fan, a vintage movies' buff and a skilled chess player. An American flag flies in his backyard. An image of the Liberty Bell is painted on his garage.

To his neighbors, he is a family man, devoted to his mother, with whom he lives, married and the father of three sons. In public, they say, he is always a gentleman.

To law enforcement authorities, however, he is the new *don* of the Philadelphia Cosa Nostra, a violent, unpredictable Mafiosi who ascended to power in a bloody gangland war.

His name is Nicodemo Domenic Scarfo, a short, always dapperly dressed man known in underworld and law enforcement circles as "Little Nicky." And although he may be the new Philadelphia *don*, he lives like a virtual prisoner in the Georgia Avenue boarding house his mother owns.

It is as though he is under a state of siege. Law enforcement surveillance of his home is constant. He is vulnerable to the threat of court-issued subpoenas. Investigators have studied him so closely they know his idiosyncrasies — the allergies that make him sneeze, his sweet tooth, his favorite drink, V.O. and water, that all others must order when they drink with him.

And lastly, there are rumors that he may be marked for murder.

His family feels the pressure too. His two youngest sons, Nick Jr. and Mark, must bear the brunt of schoolyard remarks as unflattering newspaper articles link their father to gangland killings.

(Continued on Page 3)

NICODEMO SCARFO
Alleged Mafia chief

112

'Little Nicky': The Prisoner of N. Georgia Ave.

(Continued from Page 1)

The law enforcement authorities investigating Scarfo are contemptuous of him, dismissing him as violent, unpredictable and unspeakably crude in his Mafia dealings.

But an attorney who has represented Scarfo for nearly 20 years said there is another side to the man.

"Whatever he does for a living, there's another part of his life too," said Harold Garber, who successfully defended Scarfo in a 1980 murder trial.

"He's very devoted to his family," Garber said. "He's a very quiet man; he doesn't really discuss his private life with anyone."

Scarfo declined to be interviewed for this article. But he authorized Garber to answer questions concerning his background and family life.

"The only thing ever written in the papers that upsets him is any kind of reference to the fact he may be involved in narcotics," Garber said, "because he has children and his friends have children and he would never be involved in narcotics. Whatever else they may say about him does not bother him."

Scarfo was born in Brooklyn on March 8, 1929, the son of southern Italian immigrants, Philip and Catherine Scarfo, who moved from New York City to Philadelphia when Nick Scarfo was 10.

"He often spoke to me about his mother working in a factory," Garber said. "He would speak about how his family would go to work on a farm in the summer and how clean his mother made the place.

"When the war came, when Nick was about 15 years old, the men were called into the war and Nick became the head of distribution for the newsboys at the 30th St. Railroad Station in Philly. It was a position of great responsibility and respect.

"As a teenager he was a boxer. At 16 he fought once in the Golden Gloves. He had one fight against a kid much bigger than him and knocked him out, but he quit the boxing game after that fight because he didn't like the violence.

"As well as I know him, he hasn't said too much more about his youth," Garber said.

Scarfo graduated from Benjamin Franklin High School in Philadelphia, he said. Law enforcement authorities charge that Scarfo later came under the tutelage of his uncle Nicholas Piccolo, a "made member" of the Angelo Bruno Philadelphia crime family. Authorities alleged Scarfo began as a runner for the mob, and later moved to Atlantic City to supervise the Bruno family's interests in loansharking and illegal gambling.

Garber said that Scarfo moved from Philadelphia to Atlantic City with his parents when he was approximately 33 years old. He said Scarfo's parents had used their life savings to purchase a boarding house on North Georgia Avenue, where Scarfo lives with his mother Catherine and his wife of 20 years, Dominica.

His mother, younger sister Nancy, his wife and their children attend the local Roman Catholic church regularly and are closely associated with parish activities, but Scarfo himself does not frequently attend services, Garber said.

"They're a very traditional Italian family," he said.

Garber conceded that Scarfo's children have suffered for their father's notoriety.

"I don't want to go into details, but there's a great deal of pressure," Garber said.

"The only thing he's ever said to his boys in front of me was, 'Just act like a gentleman and don't worry about what other people say. You just be a gentleman, you do the right thing.' Those were his words to them.

"He's very family oriented. I don't think there's any question, and all the surveillance will prove that. He has asked people not to visit him for their benefit because he doesn't want anybody else to be tainted just for dropping in to say hello," Garber said.

Rumors of threats on Scarfo's life abound.

"He has been informed by various government agencies over the past year, through me, that he is about to be killed," Garber said. "The Atlantic County Prosecutor's Office and other agencies have offered protection. He has not responded."

Asked if Scarfo believed the threats on his life to be valid, Garber replied, "Absolutely not."

Scarfo has resigned himself to the law enforcement surveillance that dominates his life, Garber said.

"On the whole, he generally has no problem with law enforcement agencies. He respects them and knows that it is their duty to do what they have to do. But there are some who have become infected by the very diesease they have sworn to stamp out. They violate the law even though they're sworn to uphold it," Garber charged.

In reply to allegations that he is the new head of the Philadel-

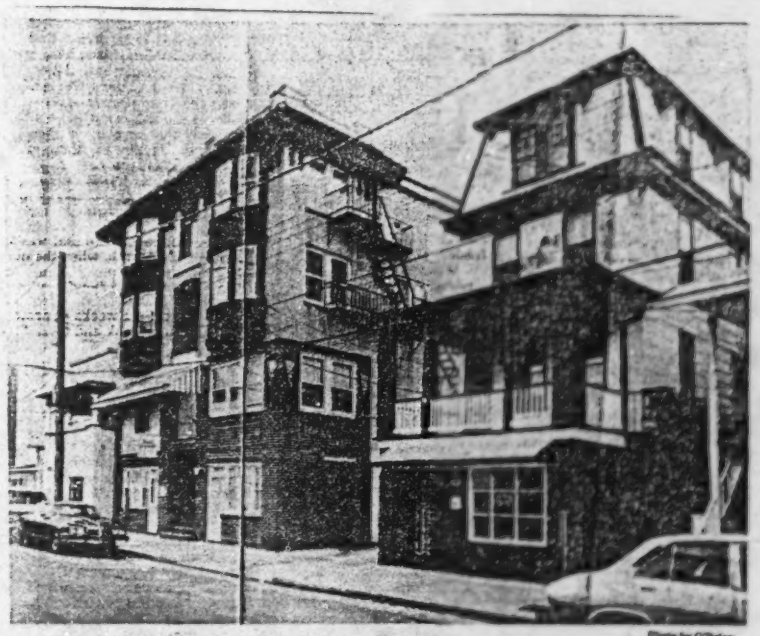


Photo by O'Brien

Left, the North Georgia Avenue building where Scarfo keeps an apartment

phia Mafia, Scarfo challenges the law enforcement agencies to prove it, according to Garber.

"His reaction," Garber said "is — 'Where's the indictment?' "

Garber said Scarfo is deeply patriotic.

"He has a fetish for cleanliness. He also has a fetish for being like an American citizen. He's very proud to be an American. He has a flag in his backyard, the Liberty Bell on his garage door.

"He has often said he would never participate in anything that would undermine the country, like counterfeiting. He would never associate with anyone who would participate in that kind of thing, or narcotics. He would never associate with a pimp. He says, 'A pimp is not a man.' "

Garber said Scarfo is very close to his nephew Philip Leonetti and their friend Lawrence Merlino. They are his constant companions, he said.

"He's an ardent boxing fan that is his great hobby," Garber said. "He's also an expert on old time movies. He knows the names of all the movies and the stars and the backgrounds of the stars.

"He's also a very good chess player," Garber added. "He learned to play while serving time in Yardville. He's been playing chess ever since then. I've played with him, and he's very good."

"He's just a very normal, natural, fun-loving person. He loves a joke. He loves to rib people. I think anyone who met him under normal circumstances would like him," Garber said.

According to law enforcement authorities, Scarfo has the following arrest record:

- Atrocious assault and battery, a knifing, Philadelphia, May 8, 1948. Charge dismissed.
- Illegal lottery, conspiracy, Philadelphia, February 28, 1950. $75 fine, one year's probation.
- Homicide, Philadelphia, June 4, 1963. Scarfo stabbed a man named William Dugan to death following an argument in the Oregon Diner. He pleaded guilty to voluntary manslaughter and was sentenced to 6 to 23 months in county jail.
- Contempt of court, Mercer County, N.J., June 23, 1971. Scarfo refused to testify about his Cosa Nostra activities before the N.J. State Commission of Investigation. He was discharged from prison in 1973.
- Murder, Atlantic County, Dec. 23, 1979. Scarfo, his nephew and their friend Lawrence Merlino stood trial for the shooting of Margate cement contractor Vincent Falcone. They were acquitted.
- Possession of a weapon by a convicted felon, Jan. 4, 1980. Scarfo was convicted and sentenced to two years in federal prison. He remains free pending appeal.

Law enforcement authorities contend that Scarfo gained control of the Philadelphia mob in the wake of a two-year-old gangland purge that began with the assassination of Bruno.

"During the two decades that Bruno served as head of the Philadelphia Cosa Nostra there were no murders within the family," the Pennsylvania Crime Commission stated in its annual report released from Harrisburg this week.

"Since Bruno's death, there have been six family members murdered, three in Philadelphia.

"Respect was the linchpin of the old Cosa Nostra. The younger members followed orders without question. But in time, the 'young turks' tired of being held down while taking all the risks. They wanted a chunk of the growing methamphetamine and cocaine trade and a bigger piece of the Atlantic City action.

"In 1975, the FBI uncovered a split in the Bruno family. A year later it became even more apparent when Philip Testa, Frank Narducci, and Nicodemo Scarfo began holding meetings apart from Bruno[illegible]...

"In May of 1978, the first casino opened at the Jersey shore, and the fight for control of the lucrative new markets spawned by legalized gambling was underway," the commission reported.

The result was "a frantic, often violent scramble for power," according to the crime commission.

"The new boss appears to be Nicodemo Domenic Scarfo..." the commission charged. Law enforcement authorities allege Scarfo is involved in union racketeering, loansharking, gambling and, contrary to what he claims, narcotics.

For now, he remains on North Georgia Avenue, a quiet man on a quiet neighborhood street in the eye of a law enforcement hurricane.

Chairman ROTH. We will now proceed with the next aspect of this investigation, which focuses on local 5 in Honolulu.

Our examination of this local rests heavily on the study of the General Accounting Office of the operation of three organizations which related to local No. 5: Unity House, Unity Council, and the Waikiki Marina Hotel.

These organizations with cumulative assets of approximately $14 million represent entities that have direct financial ties to local 5. We have tried to uncover the details of these financial ties through the issuance of several subcommittee subpenas for the records of these organizations for the period 1970 to 1980. I want to stress we have a very different perspective involved in looking at local 5 today. This does not appear to be the kind of a situation the union is facing in Atlantic City, and so far as I know, there is no evidence, no evidence linking this local to organized crime. In fairness to those appearing here, with respect to local 5, I want to underscore that fact.

Now, in examining these records, we are seeking to determine whether these organizations have been improperly permitted to conduct their operations outside of the provisions of the Labor-Management Reporting Disclosure Act. This legislation requires certain organizations to file reports with the Department of Labor and to follow certain procedures under penalty of law.

For example, the act imposes a statutory fiduciary obligation on labor officials which requires them to avoid personal financial gain from their positions.

The local itself, local 5, has been required to comply with the act. Our concern is this: Unity House, Unity Council, and the Waikiki Marina Hotel appear to have been indistinguishable from local 5 in many ways. This inseparable relationship might be the basis for a Department of Labor finding to require the compliance with the act.

There are three key questions involved in the determination as to whether Unity House, Unity Council and the Waikiki Marina Hotel are operationally inseparable from local 5: First, who has control of these organizations; Second, what were their true purposes; and third, did they operate at arm's length in local 5?

To begin the analysis of local 5, our first witnesses will be a panel of GAO representatives who have spent several months reviewing records, then we will hear from Arthur Rutledge, the former president of local 5; next, Richard Tam, the current president of local 5.

Before the GAO begins its testimony, I would like to offer for the record a 130-page statement of facts transmitted to the subcommittee by letter dated June 18, 1982.

[The document referred to was marked "Exhibit No. 8," for reference, and may be found in the files of the subcommittee.]

Chairman ROTH. I would call forward the representatives from the General Accounting Office.

Gentlemen, would you please rise and raise your right hand?

Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth?

Mr. DENSMORE. I do.

Mr. DEERING. I do.

Mr. PAYNE. I do.

Mr. KOWALSKI. I do.

Chairman ROTH. Mr. Densmore, if you would please introduce your-

self and your position as well as the others accompanying you at this point.

TESTIMONY OF EDWARD A. DENSMORE, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHN S. DEERING, JOHN C. PAYNE, AND RAYMOND J. KOWALSKI

Mr. DENSMORE. Thank you, Mr. Chairman.

On my right—first of all, I am Edward Densmore, Deputy Director of the Human Resources Division in the General Accounting Office.

On my right is Mr. John Payne, Assistant Director in our Far East Branch in Honolulu.

To his right is Mr. John Deering, Evaluator-in-Charge, also from our Far East Branch in Honolulu.

On my left is Ray Kowalski, with our Human Resources Division, assigned to the Department of Labor audit site and who was responsible for the work we did at the Department of Labor on this assignment.

I have a statement for the record, which I would like to summarize, Mr. Chairman.

Chairman ROTH. Yes, your full statement will be included in the record as if read.[1]

Mr. DENSMORE. We are pleased to be here today to report on the results of work you requested on the financial activities and the Department of Labor's oversight of certain union affiliated organizations in Hawaii.

In accordance with your request and subsequent discussions with your office, we were requested to, first, make a financial analysis of Unity House, another entity called Unity Council, and the Waikiki Marina Hotel, Inc., the hotel which is located in Honolulu and is owned by Unity House, second, determine Unity House's and Unity Council's relationships to locals 5, 555, and 996, and third, respond to various questions concerning the three entities and the role of Arthur A. Rutledge in their operation. In addition, you requested that we review Labor's oversight of Unity House and Unity Council.

We performed our work primarily in Honolulu, Hawaii, using records provided by Unity House, Unity Council and the hotel in response to the subcommittee's subpenas. Many of the records required by the subpenas were not provided and, as a result, we were not able to make a complete financial analysis.

We also reviewed Labor's records in Washington pertaining to Unity House, Unity Council and locals 5 and 996 from the early 1960's to the present.

At the subcommittee's request we prepared a detailed statement of facts on the results of our review, and on June 18, 1982, we provided a copy to you. We understand that the statement has been provided to the subcommittee members and has been made available to the public prior to today's hearings.

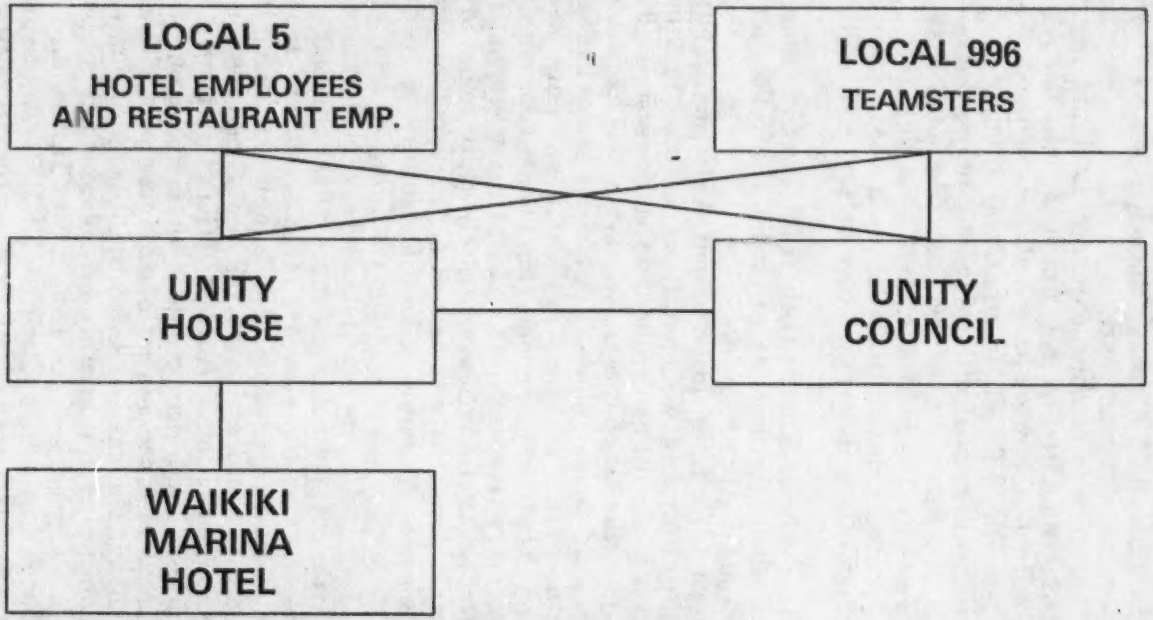
Before discussing the results of our work, we would like to briefly describe the various organizations included in our review. A chart depicting selected Arthur A. Rutledge affiliated organizations is included as Appendix A. The chart was prepared for illustrative purposes only. It is not intended to represent control, chain of auhority, or ownership.

[The chart referred to follows:]

[1] See p. 160 for the prepared statement of Edward A. Densmore.

ARTHUR A. RUTLEDGE
AFFILIATED ORGANIZATIONS

(SUBPOENAED ORGANIZATIONS AND TWO LOCALS ONLY)



THIS CHART WAS PREPARED FOR ILLUSTRATIVE PURPOSES ONLY. IT IS NOT INTENDED TO REPRESENT CONTROL, CHAIN OF AUTHORITY, OR OWNERSHIP.

Unity House is the organizational focal point of the subpenaed organizations, the first of the three to be established, and the owner of the hotel. It was incorporated in 1951 as a nonprofit corporation basically for the purpose of supporting and furthering the interests of labor in Hawaii. Arthur A. Rutledge has been president of the organization since it was founded.

Unity Council was established about 1959 and it supposedly was composed of a committee of local union officials. The council's purpose was to coordinate the organizing activities of locals 5 and 996 which are affiliated with different international unions.

The hotel was established in May 1973 under the laws of the State of Hawaii as a for-profit corporation. The hotel was built by and is wholly owned by Unity House.

The subpenaed organizations discussed above have close relations with union locals and several other related and affiliated organizations.

Local 5, which is affiliated with HERE, was founded in 1938. Arthur A. Rutledge became its president the following year and remained so until August 1978.

In August 1978, following a disputed election, HERE established a trusteeship over local 5's operations because (1) a majority of the local's executive board had requested the trusteeship, (2) local 5 failed to hold an election of officers in November 1977 as required by the bylaws, (3) local 5 had almost become functionally inoperative, because of the confusion which resulted in lawsuits involving local 5 officers and labor, (4) extreme confusion existed because the duly elected secretary-treasurer, who had primary responsibility for conducting the election of officers, was allegedly removed by other officers of local 5, and (5) a review of audit reports indicated a need to clarify the assets belonging to local 5 members.

As a result of a labor investigation, local 5 had a court ordered election of officers—supervised by labor—in January 1980. In the election Arthur A. Rutledge lost control of the union and was replaced as president. After the election, HERE removed the trusteeship.

Arthur A. Rutledge maintained his influence during the trusteeship, because he was a business agent for local 5 and his son Anthony was an assistant international trustee of HERE. Arthur A. Rutledge was also an international vice president of HERE from 1976 to January 1980, when he resigned as part of an agreement with HERE to promote harmony. He was succeeded by his son Anthony.

Local 5, in return for monthly fees, obtained office space and administrative and clerical services from Unity House until 1980.

Local 555 is also affiliated with HERE. It was founded in 1974 to represent small and special groups of employees such as hospital and culinary workers. Anthony Rutledge, Arthur's son, was an officer of the local until 1979. Up to about that time local 555 obtained office space and administrative services from Unity House at no cost.

Local 996 is affiliated with IBT. According to a news article, Arthur A. Rutledge founded this local in 1943 and since, has been its president. Local 996 occupies space in a building owned by Unity House and, in return for monthly fees, obtains administrative and clerical services from Unity House.

I would like to describe in more detail how and why each of these organizations were established and operated.

Unity House's stated purpose, as described in its original charter, is to, among other things, bring together in a benevolent and fraternal organization all members, past members, and friends of labor in Hawaii. However, the real purpose Unity House was established, according to Arthur A. Rutledge, was to shield local union assets from both international unions.

Unity House established its financial base in 1953 by offering non-interest-bearing, nonnegotiable debenture bonds to union members and friends. Its campaign had a goal to collect $50,000; however, records were not available to show the amount it actually collected.

Since its original campaign, Unity House has been almost entirely dependent financially on locals 5 and 996. Each local paid a monthly charge to Unity House of $1 per member per month. In exchange for these payments, the locals apparently received administrative services and/or office space. According to Arthur A. Rutledge, the amounts the locals paid were established arbitrarily rather than based on the value of the services received. The main assets of Unity House are the Unity building and the hotel. In June 1980, these buildings were appraised at about $1.5 million and $12.5 million, respectively.

From January 1975 through September 1981 Unity House recorded $9.6 million in receipts. The union locals provided about $2 million, or over 20 percent of these receipts, in the form of dues/administrative expenses, loans, contributions, and other reimbursements. Union related organizations accounted for about $4.6 million, or 48 percent, in loans, payments for miscellaneous costs, loan repayments, interest and from the dissolution of Unity Council.

Unity House was used as a clearing house for funds passing from one entity to another. Many of these receipts, for example, passed through Unity House as loans for construction of the hotel and as repayment for these loans and interest. Unity House borrowed over $2 million from local 5 during the period 1971 to 1977, primarily for the construction of the hotel. Between 1971 and 1980 Unity House borrowed about $550,000 from local 996—again primarily for the construction of the hotel. Unity House also received similar loans from various union affiliated organizations.

According to Arthur A. Rutledge, Unity Council was established as a coordinating committee for the organizing activities of locals 5 and 996. He stated that this arrangement was needed because the locals were affiliated with different internationals—local 5 with HERE and local 996 with IBT. He stated, however, that Unity Council's organizing activities never really materialized.

Although we could not locate documents relating to its establishment of its financial operations, it appears that Unity Council existed at least by 1959.

Unity Council was sustained financially the same way as Unity House—through monthly contributions from the union locals.

Unity Council received about $4 million between January 1, 1970, and November 30, 1979. However, Unity Council had records showing the purpose and source of these receipts for only 6 years. During the time for which Unity Council records were available, they showed that about one-third of its receipts came from locals 5 and 996. The remaining two-thirds came from redemptions of certificates of deposit and savings withdrawals. We were unable to document Unity Coun-

cil's financial activities in greater detail because very few accounting records were provided to us.

Unity Council supposedly was disbanded in November 1979 and about $560,000 in assets such as checking and savings accounts, were transferred to Unity House.

Our review disclosed, however, that a Unity Council business account remained active at least through February 1982.

Although the subcommittee's subpena requested all Unity Council accounts and records, the existence of this account was never divulged to us by Unity House or Unity Council officials.

Unity House constructed the hotel as an investment and has always owned 100 percent of the hotel's capital stock. The hotel, incorporated in 1973, is a 323-room high-rise building in the Waikiki area of Honolulu. Arthur A. Rutledge said that, originally, the hotel was intended for training prospective hotel and restaurant employees. He acknowledged that this idea proved impractical because the trainees needed to be interspersed with trained employees rather than concentrated in large groups.

Unity House borrowed money from (1) locals 5 and 996, (2) union-related organizations, and (3) the First Hawaiian Bank to construct the hotel.

The hotel opened for business about 1974. It operated at a loss in 1975, at a profit from 1976 through 1979, and at a loss again in 1980. Overall, the hotel has shown a net profit before income taxes of about $666,000.

Our work disclosed that the interrelationships between Unity House, Unity Council, the hotel, locals 5 and 996, and other affiliated organizations were extremely close and complex.

At one time the organizations shared the same facilities, staff, and leader—Arthur A. Rutledge. The organizations paid expenses for one another, shifted employees from one to the other, and loaned money back and forth.

Also, Unity House, the hotel, locals 5 and 996 as well as Arthur A. Rutledge, members of his family, and employees of Unity House and the hotel, pooled funds to invest in large denomination certificates of deposit to obtain higher rates of return. During our review we identified 14 examples where funds—ranging from $102,100 to $681,871—were pooled. Arthur A. Rutledge participated in eight of these transactions.

Because of these close and complex interrelationships, basic internal controls to safeguard the organizations' assets were seriously deficient. Particularly weak was the almost complete lack of separate duties for accounting personnel. Employees were allowed access to all accounting records for several different organizations and were involved in all phases of the accounting cycle.

Although a certified public accountant audited Unity House's financial statements, Unity Council and the hotel records were not audited.

Furthermore, none of the organizations required written agreements to document indebtedness or contractual arrangements. Perhaps the best evidence of the financial management and internal control inadequacies is that apparent embezzlements totaling at least $282,000—

one of which was uncovered by our review—ocurred in two of these organizations.

[At this point Chairman Roth left the hearing room.]

Mr. DENSMORE. Arthur A. Rutledge is the key individual associated with the three subpenaed organizations and many of the related organizations. He has been president of Unity House since it was founded in 1951, and the key representative of Unity Council from 1959 until 1979 when it was disbanded. He was president of the hotel from May 1973 to May 1974. He has not officially held a position in the hotel since 1974; however, he is president of Unity House which owns the hotel.

In addition to the subpenaed organizations, Arthur A. Rutledge held key positions in at least 13 related and affiliated organizations. In 1978, for example, while he was president of Unity House and Unity Council, he was concurrently: president of local 5, trustee for a local 5 pension plan, trustee for a local 5 health and welfare plan, international vice president of HERE, trustee of HERE's pension plan, president of local 996, president of Teamsters Joint Council 50—a local Hawaii organization affiliated with IBT—and president of the Hawaii Pacific Cinema Development Foundation.

A chart which illustrates the various positions Arthur A. Rutledge held and the time frames is in appendix B.

[The chart referred to follows:]

POSITIONS HELD BY ARTHUR A. RUTLEDGE IN VARIOUS ORGANIZATIONS

ORGANIZATION	POSITION/TITLE a/	70	71	72	73	74	75	76	77	78	79	80	81	82	TIME PERIOD(S) INVOLVED
UNITY HOUSE, INC. UNITY HOUSE, INC. WAIKIKI MARINA HOTEL, INC.	PRESIDENT DIRECTOR PRESIDENT														FROM 1951 TO PRESENT FROM 1951 TO PRESENT FROM 05/11/73 TO MAY 1974
WAIKIKI MARINA HOTEL, INC. UNITY COUNCIL MOVIE PRODUCTION FUND	DIRECTOR PRESIDENT FOUNDER														FROM 05/11/73 TO MAY 1974 FROM 1959 TO NOV 1979 c/ FROM 1957 TO AUG 1979
HAWAII PACIFIC CINEMA DEVELOPMENT FOUNDATION, INC. JOINT COUNCIL #50	PRESIDENT DIRECTOR PRESIDENT														FROM AUG 1979 TO PRESENT FROM 1973 TO 1978
HOTEL EMPLOYEES LOCAL #5 HOTEL EMPLOYEES LOCAL #555 TEAMSTERS LOCAL #996	PRESIDENT NOT KNOWN b/ PRESIDENT														FROM 1938 TO AUG 1978 FROM 1943 TO PRESENT
FRIENDS OF RUTLEDGE (AAR's CAMPAIGN ORGANIZATION FUND)	NOT KNOWN b/									■					08/11/78
HARIETT HOTEL EMPLOYEES INTERNATIONAL TEAMSTERS INTERNATIONAL	FOUNDER INTERNATIONAL VICE PRESIDENT NOT KNOWN b/														02/04/55 FROM 1976 TO JAN 1980
PENSION PLANS HOTEL EMPLOYEES LOCAL #5 TEAMSTERS LOCAL #996	TRUSTEE FOUNDER														FROM 1970 TO FEB 1980
HOTEL EMPLOYEES INTER-NATIONAL TEAMSTERS INTERNATIONAL	TRUSTEE NOT KNOWN b/														FROM 1977 TO JAN 1980
HEALTH AND WELFARE PLANS HOTEL EMPLOYEES LOCAL #5 TEAMSTERS LOCAL #996	TRUSTEE FOUNDER														FROM 1970 TO FEB 1980
HOTEL EMPLOYEES INTER-NATIONAL TEAMSTERS INTERNATIONAL	TRUSTEE NOT KNOWN b/														"AT ONE TIME"

NOTES: a/ THE INFORMATION USED TO COMPILE THIS TABLE CAME FROM A VARIETY OF SOURCES, INCLUDING INTERVIEWS.

b/ MR. RUTLEDGE'S POSITION IN THESE ORGANIZATIONS WAS NOT INCLUDED IN THE INFORMATION AVAILABLE TO US (See Note a).

c/ ALTHOUGH UNITY COUNCIL CEASED OPERATIONS AS OF NOVEMBER 1975, ITS BUSINESS CHECKING ACCOUNT REMAINS ACTIVE.

APPENDIX B

In the early 1960's——

Senator RUDMAN. Mr. Densmore, we have a vote on and I have 3 minutes to get to the floor. Why don't we suspend until the chairman returns and we will just continue on.

[Brief recess.]

[Senator present after recess: Senator Roth.]

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on the Hotel Employees and Restaurant Employees International Union, to be held on June 22 and 23, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.

SAM NUNN.
Ranking Minority Member.

Chairman ROTH. The subcommittee will be in order, and I would ask the witness to please proceed.

Mr. DENSMORE. In the early 1960's, locals 5 and 996 each established a $100,000 trust fund for Arthur A. Rutledge. On September 30, 1981, the two trusts' value had increased to at least $388,000. Under the trusts' terms, when Arthur A. Rutledge retires he will receive the interest earned from the investments and the principle will revert to the locals.

With regard to the review of Department of Labor's oversight of Unity House, Unity Council, and related union organizations, our review of records at Labor's Washington office showed that the Department's Office of Labor-Management Standards Enforcement—LMSE—has not made any investigations per se of Arthur A. Rutledge, Unity House, Unity Council or the hotel's operations. LSME's only reviews of Arthur A. Rutledge, Unity House and Unity Council were made in the early 1960's as part of its reviews of locals 5 and 996.

Labor-Management Services Administration (LMSA) officials, including a former Assistant Secretary for Labor-Management Relations and the former and present Directors of LMSE believe that Unity House and Unity Council are subject to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). However, despite repeated requests from officials in LMSA, and its predecessor agency—spanning a 21-year period—1961 to 1982—Labor's Office of the Solicitor has never made a determination as to whether these organizations are in fact labor organizations under LMRDA, and thus subject to the act's requirements.

As a result, LMSE has never investigated or audited Unity House or Unity Council.

LMRDA applies to all labor organizations and employees subject to collective bargaining agreements even if not union members, except organizations representing public employees working for a State or its political subdivisions.

Within LMSA, LMSE administers and enforces LMRDA. LMSE is assisted in carrying out its enforcement responsibilities by an associate solicitor for labor-management laws in the Washington headquarters and a regional solicitor located in each of the six LMSA regional offices.

[At this point Senator Rudman reentered the hearing room.]

Mr. DENSMORE. Labor's only reviews relating to Arthur A. Rutledge, Unity House and Unity Council were made in the early 1960's and they were made as part of its reviews of locals 5 and 996 and HERE's trusteeship of local 5 in 1960.

To illustrate, the Bureau of Labor-Management reports (the predecessor agency to LMSA made a review in May 1960 at HERE's headquarters in Cincinnati, Ohio, to review the trusteeship of local 5's operations, and a review in September–October 1960 in Honolulu to gather information on Arthur A. Rutledge, Unity House and Unity Council.

Our review of the Bureau's reports show that they did not constitute an investigation of Arthur A. Rutledge, Unity House, or Unity Council per se. The first review was merely a gathering of, and reporting on, the reasons for HERE's trusteeship of local 5 and its termination, and the second was a review to gather information on Arthur A. Rutledge, Unity House and Unity Council and their affiliation with locals 5 and 996.

The Bureau's San Francisco area office also made a financial investigation of locals 5 and 996 in November–December 1960. Its report pointed out that the two organizations, Unity House, and Unity Council, were financially dependent on the locals, but did not file any of the reports required by LMRDA. In March 1961, the San Francisco office requested its Washington office to rule on the status of Unity House and Unity Council under LMRDA. In September 1961, the Commissioner of Labor-Management reports formally requested such a ruling from Labor's solicitor. The Washington and San Francisco office made repeated requests for information on the ruling from 1962 to 1967.

Labor's records showed no significant review activity concerning Unity House and Unity Council occurred until late in 1978. Labor's interest in 1978 apparently stemmed from the fact that HERE had again placed local 5 under trusteeship in 1978.

On November 16, 1978, the Director of LMSE had a memorandum prepared which addressed the nature of Unity House and Unity Council and whether they are subject to the provisions of LMRDA. The Director's memorandum stated that LMSE had concluded that Unity House and Unity Council are trusts in which labor organizations are interested as defined in the LMRDA.

On November 17, 1978, the Director, LMSE, submitted the memorandum to the Assistant Secretary for Labor-Management Relations. The Assistant Secretary, on November 20, 1978, raised two questions: First, who are the legal owners of the Unity House, and second, are dues money for Unity House collected through union auspices. The Assistant Secretary said if the second point is true, then Unity House and Unity Council are trusts under LMSE's regulations. The Assistant Secretary concluded that, in any case, LMSE should begin audits of Unity House and Unity Council.

Our review showed, however, that as of May 1, 1982, LMSE had not made any audits or investigations of Unity House and Unity Council.

LMSE's latest investigative activity concerned a complaint to the Secretary of Labor dated January 15, 1982, by the president of local 5. The president's letter enclosed a demand for investigation of certain charges that the local's financial secretary-treasurer—Richard A. T. Tam—had used local 5 funds to pay certain legal expenses for himself and others in violation of the fiduciary standards in section 501 of LMRDA, HERE's constitution and local 5's bylaws. As of June 1, 1982, LMSE's San Francisco office had not completed the investigation of the president's allegations.

LMSE officials told us that, when the current investigation of local 5 is completed, it intends to follow up with an investigation of locals 5 and 996 and their relationship with Unity House and Unity Council.

The Acting Chief, Branch of Criminal Investigation said that LMSE expects to receive 100 additional investigative positions in 1982, with one of the positions designated for Hawaii. He indicated that LMSE will then be in a better position to make a review of the Unity House and Unity Council.

As far back as 1961, officials of LMSA and its predecessor agency have raised questions concerning the operation of Unity House and Unity Council by Arthur A. Rutledge and their relationship to locals 5 and 996. LMSA officials, including the Assistant Secretary of Labor-Management Relations, believed that Unity House and Unity Council were subject to LMRDA. He also suggested that LMSE audit the organizations.

Yet, to date, LMSE has not audited Unity House and Unity Council. In our opinion, the problem for over 21 years, seems to be a lack of a decision on the part of Labor's Office of the Solicitor to make a determination as to whether Unity House and Unity Council are labor organizations under LMRDA, and thus subject to the act's requirements.

Mr. Chairman, this completes my statement. We will be happy to respond to any questions you or members of the subcommittee may have.

Chairman ROTH. At this time we will delay our questioning until we have the opportunity to hear from Dave Faulkner.

Dave, would you please come forward?

Mr. Faulkner, who is a staff investigator, did testify yesterday, at which time he was sworn, so you will again be testifying under oath.

TESTIMONY OF DAVID FAULKNER, STAFF INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FAULKNER. Mr. Chairman, my name is David Faulkner, staff investigator with the Permanent Subcommittee on Investigations. I would like to focus on certain salient issues addressed by GAO and staff investigators during our review of local 5 of the Hotel Employees and Restaurant Employees International Union—HEREIU—in Honolulu.

During our investigation it became apparent that the entities created by Arthur Rutledge—that is, Unity House, Unity Council,

98-802 O - 82 - 9

Waikiki Marina Hotel and the Movie Production Fund—did little to achieve the aims of each as originally stated in charter form or by Arthur Rutledge himself.

In fact, Rutledge and others have acknowledged that the true purpose behind the creation of Unity House and Unity Council was to shield union assets from the respective Teamsters and HERE International Unions. This real purpose is dramatically manifested by the Unity House development of the 323-room Waikiki Marina Hotel.

Investments of this or any other type are not mentioned in the Unity House Charter.

Unity House's sister entity Unity Council was probably established around 1959. However, documentation regarding its formation is not available and most financial records for the council were not produced.

The purpose of Unity Council, according to one Unity House source, was to serve as a committee to coordinate the organizing efforts of Teamsters Local 996 and Hotel Employee Local 5, each representing different Internationals.

Arthur Rutledge and others have acknowledged that Unity Council in fact never performed this coordinating function.

It is important to point out that Unity Council and Unity House each received $1 per month per member from both locals, 5 and 996. Annual reports filed by each union with the Department of Labor record these payments as dues, however, Rutledge contends these moneys actually reflected payments by the unions for clerical and other support services provided to the locals by both entities. One Unity House official reported that Unity Council performed no administrative work for either local.

In any event the monthly payment of $1 per member was arbitrarily set by Rutledge and in no way reflected the actual cost of any administrative services which may have been provided by either Unity House or Unity Council. This arbitrary assessment figure thereby undermines the contention that Unity House and Unity Council operated as arms length service providers for locals 5 and 996. When Unity Council ceased operations in February 1980 approximately $560,000 in checking and savings account funds were transferred to Unity House.

With respect to the Waikiki Marina Hotel, it was established in 1973 and Unity House continues to be the sole stockholder in the hotel, holding the 100 outstanding shares originally issued. Arthur Rutledge was the first president of the hotel corporation, maintained residential space in the hotel and, according to former hotel employees, continues to maintain direction and control of the hotel operation. According to an independent appraisal performed in July 1980, the Waikiki Marina Hotel and Unity House building have a fair market value of $14 million and today Unity House controls assets worth about $18 million.

One former hotel official stated that Rutledge had articulated that a major benefit of establishing the Waikiki Marina Hotel was to provide a training facility and subsequent job placement service for new employees in the hotel industry. However, no such training program was ever instituted.

Our inquiry has shown that not only have these entities, created by Arthur Rutledge, failed to achieve their stated aims but in at least one

area the existence of Unity House and its offspring, the Waikiki Marina Hotel, have been counterproductive to the interests of the membership of HEREIU locals 5 and 555.

Shortly after the Marina Hotel opened, several Hawaiian hotels filed petitions with the National Labor Relations Board contending that the union has a direct conflict of interest because, through Rutledge, it owned and managed the Marina Hotel. In 1976 the Ninth Circuit Court of Appeals ordered locals 5 and 555, their agents, officers and representatives to divest themselves of all management of the Waikiki Marina Hotel. An NLRB official told staff investigators that the 1976 ruling clearly had an adverse effect on the organizing efforts of local 5. The local actually withdrew from numerous organizing campaigns rather than test the issue because its president, Rutledge, continued to maintain control over the Marina Hotel.

Our investigation indicates that this conflict of interest may have cost local 5 hundreds of new members over the years.

Our investigation has shown that Unity House apparently acted as a sort of clearinghouse for all business involving Teamsters or HEREIU locals. These union locals were so integrated within Unity House as to be almost indistinguishable as separate entities. It appears that through Unity House Teamsters officials negotiated HEREIU contracts and hotel union officials sometimes represented Teamsters' interests.

It is interesting that these union leaders were viewed by at least one labor consultant as Unity House officials and their actual union affiliation was totally immaterial.

Finally, while the subcommittee and GAO have not undertaken an indepth examination of another financial entity known as the movie production fund, or more formally, the Hawaii Pacific Cinema Development Foundation, Inc., it is important to note its existence in conjunction with Unity House. This fund was established by Arthur Rutledge to promote and assist the film industry in Hawaii generally, and, specifically, to create a studio to be rented to film production companies.

No studio has ever been built. Moreover, the high paying jobs in the Hawaiian film industry are so coveted by members of the Teamsters production unit that they relinquish 10 percent of their wages to Rutledge's movie fund.

As early as 1958 a suit was filed with the National Labor Relations Board challenging the legality of the arbitrary 10-percent Teamsters' deductions. The suit proceeded through the Ninth Circuit Court of Appeals and resulted in a ruling that the movie production fund would be required to return the 10-percent deduction to the membership and any future arbitrary deduction would be illegal. Based on this decision approximately $22,000 in movie fund collections were refunded to the individual teamsters involved. In spite of this ruling, these 10-percent cash payments have continued to the present and are labeled, by fund officials, as voluntary contributions. However, a former production unit member stated that these cash contributions are made with the understanding that continued employment in this lucrative area hinges on these contributions. Arthur Rutledge has been quoted by a Honolulu newspaper as asserting that teamsters work at the production unit only with his personal approval.

In addition, a source formerly employed in this unit stated that this 10-percent payment is collected in cash at the job site by teamsters known as movie captains and turned over directly to Rutledge. This practice raises legitimate questions regarding these funds. Who is accountable?

How do these movie funds relate to our Unity House review? Very simply, the movie production fund was closely linked to both Unity House and Unity Council; the fund lent them almost $400,000 and pooled money with both entities to buy jumbo certificates of deposit.

Mr. Chairman, I think this hearing will reveal that the evolution of Unity House and Unity Council; the fund lent them almost $400,000 and pooled money with both entities to buy jumbo certificates of deposit.

Mr. Chairman, I think this hearing will reveal that the evolution of Unity House and its attendant assets under the firm guidance and control of Mr. Arthur Rutledge has deviated sharply from its originally chartered purposes and has been in reality an investment vehicle utilized to shield union assets from the international unions involved and perhaps even from the dues paying members themselves.

Thank you very much.

Chairman ROTH. Both you, I believe, in the statement by you and also Mr. Densmore, said the purpose of creating Unity House was to shield local funds from the international.

Can you identify who made that charge, who made that statement?

Mr. FAULKNER. Yes, Mr. Chairman. Mr. Rutledge himself stated that to both the GAO staff's investigators and our investigative staff.

Chairman ROTH. Mr. Densmore?

Mr. DENSMORE. That is correct, sir.

Chairman ROTH. In other words, Mr. Rutledge himself stated that the purpose of the creation of Unity House was to shield union money?

Now, as I understand it, the files of the union, local 5, and the Teamsters, also show the payment of $1 as dues, is that correct?

Mr. PAYNE. That is right.

Chairman ROTH. In both unions?

Mr. PAYNE. Correct.

Chairman ROTH. So that that would tend to support the statement by Mr. Rutledge that these are union funds that are being paid over to Unity House.

Mr. PAYNE. That is correct.

Chairman ROTH. Now, are the records of these dues or funds kept in accordance with the labor legislation on the books?

Mr. PAYNE. The payments of the dues or what is classified as dues to Unity House and previously to Unity Council are made by the locals in a total payment. They are based on the monthly membership of the union and made in one payment by the union local to Unity House and previously Unity Council. They are not deducted from each member's individual dues.

Chairman ROTH. Is there any descriptive feature in the individual dues paid by the members? In other words, I am a member of local 5, and I pay a certain amount of monthly dues. Is that broken down?

Mr. PAYNE. To our knowledge, it is not broken down to the individual member level.

Chairman ROTH. In your investigation, how was this dollar dues determined or whatever you want to call it? Are there any requirements in the union charter or bylaws as to how dues are raised?

Mr. PAYNE. The bases for determining the $1 assessment, according to Mr. Rutledge, was an arbitrary decision without any regard to the value of the service which was to be provided by either Unity House or Unity Council. The amount of the assesment was never a membership issue.

Chairman ROTH. Who made that—how was that decision made as to the dollar?

Mr. PAYNE. I believe it was made by Mr. Rutledge and the members of the board.

Chairman ROTH. Mr. Densmore, do you have any information on how that was decided?

Mr. FAULKNER. It is our understanding it was an arbitrary decision by Mr. Rutledge to assess that of each member, $1 per member per month.

Chairman ROTH. When these fees—I guess originally they were 50 cents.

Mr. DEERING. Yes.

Chairman ROTH. When these dues were determined, what position did Mr. Rutledge have in the union and what position did he have in Unity House?

Mr. PAYNE. When the fees were determined, Mr. Rutledge was president of each of the locals and of Unity House.

Chairman ROTH. So that when you call it a contract, I gather he would claim or assert whether it is dues, he was on both sides of the bargaining table?

Mr. PAYNE. Well, Mr. Rutledge and other officials have since acknowledged that the classification of the money as dues is really a misnomer, and they no longer report the payments as dues on the reports filed with the Department of Labor.

They maintain that the payment of the $1 per member——

Chairman ROTH. When was that change made?

Mr. DEERING. That change was made approximately in March of 1980.

Chairman ROTH. In 1980?

Mr. DEERING. Yes.

Chairman ROTH. So for a period over 20 years, they were recorded as dues.

When did these payments first start?

Mr. DEERING. We don't have any very specific information on that. We do know they have been in existence since at least 1970.

Chairman ROTH. So there was then a period of at least 10 years——

Mr. DEERING. At least.

Chairman ROTH. The union's own records reflected that these were dues?

Mr. DEERING. Yes, sir, that is right.

Chairman ROTH. Now, do the union records today—it is my understanding today the union records still show them as dues, is that correct, of local 5 and——

Mr. DEERING. We don't know about local 996, but local 5 does report those as administrative expenses currently.

Chairman ROTH. Your opening statement alluded to the fact that Arthur Rutledge commingled funds of Unity House and related organizations.

Could you give us any detail on that?

Mr. PAYNE. Yes, sir, we found a total of 14 cases where funds of the individuals and organizations were pooled to purchase jumbo certificates, and we did not attempt to make a complete identification of these instances, so there may be additional instances. We found four cases in the Unity Council records and in these cases, Unity Council maintained the responsibility for the bookkeeping, they collected and distributed the proceeds, and wrote checks to distribute the proceeds when the certificates matured.

In other cases, we identified 10 examples from a financial institution in Honolulu with the subcommittee subpena.

In pooling individual funds for the purchase of CD's, as an example, in April 1974, a jumbo CD was purchased from American Factors Financial Corp., which is a Honolulu corporation, for about $102,000. This amount was comprised of about $12,100 from Arthur Rutledge, $5,000 from Unity Council, $40,000 from local 5, $25,000 from local 996, and $20,000 from Unity House.

The certificate matured 60 days later and the proceeds were used to purchase another certificate. The statement of facts includes as an appendix a complete listing of the 14 examples of pooling the funds.

Chairman ROTH. So that the record is clear that there was a commingling of funds between these different organizations plus Mr. Rutledge.

Mr. PAYNE. Yes, sir; in most cases the commingling involved Unity House, Unity Council, local 996, local 5, and Arthur Rutledge. However, on occasion there were additional individuals and organizations involved.

Chairman ROTH. You made some statements with respect to the services provided by Unity House to local 5. Are these—what services are currently being provided by Unity House through local 5?

Mr. PAYNE. None currently. In 1978, when the disputed election occurred, when Mr. Rutledge was eventually unseated as head of local 5, local 5 shortly thereafter moved out of Unity House and severed all apparent ties with Unity House.

Chairman ROTH. Local 5 is currently not paying any dues, but the Teamsters Union continues?

Mr. PAYNE. That is right, sir.

Chairman ROTH. And Mr. Rutledge continues to be president of that union?

Mr. PAYNE. Yes, sir.

Chairman ROTH. Are any services being provided to the Teamsters?

Mr. PAYNE. Yes; the services being provided to the Teamsters are supposedly the same ones that were provided over the years—clerical, administrative, bookkeeping, parking, and office space.

Chairman ROTH. Did you investigate whether or not the payment for these kinds of services are in any way comparable with what would be paid in that area?

Mr. PAYNE. We made an attempt to compare the services, but there were so many variables that we were unable to establish that the price for the service was unreasonable. We did make some comparisons

based on a square footage basis of the space in Unity House and we found wide variations in the dollar costs per square foot. But we were not able to conclude that the price of the services was unreasonable.

Chairman ROTH. One of the basic issues in this matter here evolves around the question whether Unity House does in fact have an identity distinct from locals 5 and 996, whether there has been in fact an arm's length relationship to Unity House and to the locals.

On the basis of your review, would you conclude that there has been less than an arm's length relationship between Unity House, Unity Council, local 5 and local 996, and if so, what is the significance of that as you see it?

Mr. DENSMORE. Yes, we would conclude that there was less than an arm's length relationship between these organizations.

If I could just briefly quote from Black's Law Dictionary:

> Arms length: Beyond the reach, the personal influence or control, parties are said to deal at arm's length when each stands upon the strict letter of his rights and conducts business in a formal manner without trusting to the other's fairness or integrity, and without being subject to the other's control or master influence.

I think in the types of situations we talked about, where there was the same individual in effect at the head of these different organizations, where there was the same personnel that were keeping the books and financial records of several of these organizations, where there was a lack of written documentation with regard to contracts and leases and things like that, where one organization would pay the bills—for instance for postage for all the organizations one month—someone else would pay the utilities, a different one the telephone for all the organizations. These types of examples would indicate that there is a very, very close interrelationship where the dealings were less than at arm's length.

Chairman ROTH. If I understand your statement, when you say less, you mean it is a significant difference between arm's length——

Mr. DENSMORE. Yes, sir; it is almost as if you are talking about one entity as opposed to several that were separate and distinct.

Chairman ROTH. In other words, instead of having distinct organizations working at arm's length, you really have their funds intermingled and operated pretty much as if they were one and the same organization?

Mr. DENSMORE. It could be so interpreted, yes, sir.

Chairman ROTH. Now what has the Department of Labor done with respect to oversight of Unity House and Unity Council? Are you aware of their making any significant efforts to examine this basic issue we are discussing today?

Mr. DENSMORE. For the most part, labor's relationship has been very small. There was some involvement in the early 1960's, but that was more as labor investigating locals 5 and 996.

There has been little labor investigative activity that involved Unity House, Unity Council and the hotel, and the primary reason for this is that there has been a lack of a decision on the part of Labor's Solicitor's Office with regard to whether or not these organizations are in fact labor organizations within the requirements of the Labor-Management Reporting and Disclosure Act.

There have been several requests made by labor regional personnel of the decision with regard to the status of these organizations. But

without a determination from the Solicitor's Office that these organizations do come within the act, that there has been no investigative or oversight activites.

Chairman ROTH. Have you discussed this matter with any representatives of the Labor Department, and if so, what explanation was given?

Mr. KOWALSKI. Senator, we reviewed the old records of the Solicitor's Office and tried to see why they had not made the determination. But the records don't tell the story. We did talk to the Associate Solicitor, who is in charge of making the determination. She could not remember why Labor did not make a determination.

So there is really nobody in Labor that will tell you why it did not make a determination.

Chairman ROTH. Isn't one of the primary purposes of the labor legislation to require disclosure to make this kind of determination?

Mr. KOWALSKI. Yes, Senator. LMSE would like to make the determination so that it can make a review and require Mr. Rutledge, Unity House and Unity Council to submit reports under its regulations.

Chairman ROTH. Have they in the last 10 years made any type of preliminary investigation at all?

Mr. KOWALSKI. No, sir.

Chairman ROTH. But they have had complaints?

Mr. KOWALSKI. Yes; in the last conversation I had with LMSE officials, they said they believe LMSE has authority to investigate Unity House and Unity Council. The director, LMSE said he intends to make an investigation. However, they have been saying that for the last 10 years, Senator, and still have not made a review.

Chairman ROTH. It appears on the surface that without jumping to what conclusion we might come to, that the Labor Department was totally apathetic, grossly negligent in not assuming responsibility provided under law.

Mr. KOWALSKI. I would agree.

Chairman ROTH. I want to make clear this is something that did not just happen, it went over a period of many years.

Mr. KOWALSKI. Yes, sir.

Chairman ROTH. Are you aware of any records in the custody or control of Mr. Rutledge not provided in response to subcommittee subpenas?

Mr. DEERING. Yes, sir; we are aware of two accounts. One is a checking account and one is a savings account. We obtained this information based on voluntary access to local 5 books and records.

For example, the checking account is known by official bank records as the Unity Council business account. It had monthly balances from 1970 to 1982, ranging from approximately $6,000 to $15,000.

The savings account was opened in May 1971 and closed in November 1979, and at one time, it had up to $284,000 in it. When the account was closed, interest of $8,076 was subsequently transferred to Unity House.

There were also three large CD's purchased in February 1971. CD's ranged from approximately $83,000 to $99,000. These funds were also transferred to Unity House.

Chairman ROTH. My final question will be. Have there been any recent developments concerning the assets of Unity House?

Mr. PAYNE. Yes, sir, there have been a number of recent developments, any of which might affect the assets of Unity House eventually.

The first one involves the membership of Unity House, and that issue has been in litigation in Honolulu for some time now.

Mr. Rutledge claims that the only members of Unity House are the original founding directors. Mr. Tam, who unseated Mr. Rutledge, as head of local 5, maintains that there are additional members, including any member in good standing of locals 5 and 996.

The issue of who is actually a member of Unity House could very well affect the assets eventually.

Two additional things have happened within the last couple of months. First of all, Unity House amended its charter on March 11, 1982, and the amendment to the charter deals at length with the transfer of assets upon dissolution to another nonprofit organization in the State of Hawaii.

We talked to a State official concerning the purpose and effect of a charter change, and he maintains that there is really no impact of the change except for the emphasis on transferring funds to another organization. He maintains that under Unity House's original charter they could have done anything they can do under the new charter. Also the new charter does not preclude anything that could be done under the old one.

The only difference is emphasis on the transfer of assets to another nonprofit organization.

More recently, on May 30, and June 6, and I understand again this week, Unity House has been running ads in the local paper advertising for membership, and to quote from the ad run recently:

> Notice: Unity House, Inc., a nonprofit organization, is accepting applications for membership. Unity House is looking for concerned citizens willing to abide by and further the principles of Unity House. Friends of Labor, members of the AFL–CIO, Teamster and Hotel and Restaurant Employees may apply for membership either by application form or in person.

Any of these developments could ultimately affect the disposition of assets of Unity House.

Chairman ROTH. If you go back and accept the statement that these funds are union funds, and according to the testimony you offered, Mr. Rutledge himself says the purpose of Unity House was to shield local funds from the international union.

Does this mean, does this endanger the rights of the union membership to these funds; could these be transferred to another group, maybe for a worthy cause, but to another group?

Mr. PAYNE. According to the State government official in Hawaii, the State law on the disposition of assets of a nonprofit corporation is vague, and he maintains that one of the purposes or one of the things that could be done with the assets of a nonprofit organization such as Unity House is to transfer those assets to another qualified nonprofit organization in Hawaii. He maintains that can be done, that is an option.

Chairman ROTH. For whatever purpose?

Mr. PAYNE. For whatever purpose, as long as it is a qualified nonprofit organization.

Chairman ROTH. So that legally it is possible these funds could be transferred to another nonprofit organization that would not maintain any protection if these are union funds—and that is the key ques-

tion—so that Labor-Management Act would be violated, wouldn't it. If you accept the idea these are dues, they are union funds, and they are transferred for some other purpose. Would that be in violation of the labor law?

Mr. DENSMORE. That is a question we did not really address, Mr. Chairman. We could probably look at that and supply that information for the record, but we are not in a position to answer that question today.

Chairman ROTH. I would appreciate it if you would do that.

Isn't that a question that the Labor Department under the law should be concerning itself with?

Mr. DENSMORE. Yes, sir.

[The information supplied follows:]

The transfer of assets by Unity House, even assets originating with a labor organization which retain their character as union money, would not appear to violate the specific language of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA). Moreover, Labor has not administratively determined, nor has it been judicially determined, that Unity House is subject to the LMRDA.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, I only have one question.

You mentioned there is a lawsuit now pending involving Unity House?

Mr. PAYNE. Yes, sir.

Senator RUDMAN. Who are the parties in that suit?

Mr. PAYNE. The parties in the suit—I don't know the full slate of parties, we could provide that. But basically Mr. Tam, who is currently head of local 5 is bringing the suit against Unity House and Arthur Rutledge, to attempt to establish some ownership of local 5 over Unity House, at least part ownership.

Senator RUDMAN. Do you care to comment, sir?

Mr. DEERING. I just want to add one point.

In addition to local 5, individual members of 996 were also part of that suit.

Senator RUDMAN. Because what we have here is a nonprofit corporation owning for profit assets, and so any ownership that would be derived would be derivative back to owners or voluntary incorporators of the nonprofit corporation, am I correct?

Mr. PAYNE. Yes, I think that is the basis of the lawsuit now.

Senator RUDMAN. I will ask Mr. Tam, he is going to be a witness, and also Mr. Rutledge.

Thank you.

Chairman ROTH. I believe Mr. Weiland has some questions.

Mr. WEILAND. Mr. Densmore, or other representatives of the GAO, let me ask you just a couple of questions, if I may.

You have indicated a general lack of accountability in the financial systems of Unity House and Unity Council, and the hotel itself.

Do you have specific examples of this lack of accountability that you can share with us this morning?

Mr. PAYNE. Yes, sir. I think that in our opening statement and Mr. Faulkner's opening statement we listed a number of specific examples where there was less than adequate financial oversight and accountability—such things as undocumented contracts, leases, paying expenses for each other.

Perhaps the bottom line evidence of the problems with the financial management and the accountability are the two embezzlements that have occurred, in two of the organizations: One in the Waikiki Marina Hotel, the second in Unity Council.

Neither the Waikiki Marina Hotel nor the council had their records audited.

Mr. WEILAND. What was the amount of those embezzlements?

Mr. PAYNE. In the Waikiki Marina Hotel, it is in excess of $220,000.

This embezzlement occurred supposedly by an ex-bookkeeper taking money from the change fund and replacing the money with deposits that were mailed in by people for advance reservations.

The individual denied all charges and subsequently left Hawaii.

The individual has recently been indicted by the IRS for tax evasion. We understand that matter is being disposed of now.

The second embezzlement which was unknown until we performed our examination involves at least $60,000. We documented over $60,000, but we know more is involved. At the time we confronted the individual and obtained an admission that there was an embezzlement we referred the information to the FBI because of the obvious criminal implications and it is being investigated by the Honolulu FBI. We did not attempt to fully document the amount involved.

Mr. WEILAND. You obtained an admission yourself as to that embezzlement; is that right?

Mr. PAYNE. Yes, sir.

Mr. WEILAND. Finally, if you would, could you tell us what types of income Mr. Rutledge has derived from his various union positions, and what, if any, personal benefit he has particularly derived from the Waikiki Marina Hotel?

Mr. DEERING. Yes, sir.

The union locals established two $100,000 trusts for him, two loans were made, to Arthur Rutledge, one from local 5 and one from Unity House for personal reasons.

He has pooled funds with locals and other organizations. His salary, for example, from January 1970 to December 1980, from locals 5 and 996 was over half a million dollars. There is a board resolution that is currently open on the books of Unity House suggesting that some type of compensation be awarded to Mr. Rutledge. What form that compensation would take, if any, has yet to be determined.

Mr. WEILAND. Thank you.

I would just like to offer for the record, Mr. Chairman, not for republication, but as an exhibit for the files, a copy of the ninth circuit opinion dated February 11, 1976, that Mr. Faulkner referred to. I don't believe that is a published opinion.

As a separate exhibit for republication, a copy of the notice GAO referred to earlier concerning Unity House, and finally a copy of the certificate of amendment from the State of Hawaii regarding a change in the Unity House charter.

Chairman ROTH. Without objection.

[The documents referred to were marked "Exhibit Nos. 9, 19, and 11," for reference; exhibit 9 is retained in the files of the subcommittee. Exhibit Nos. 10 and 11 follows:]

EXHIBIT NO. 10

NOTICE

Unity House, Inc., a non-profit organization, is accepting application for membership.

Unity House has been in existence for 31 years and is a solid, viable institution founded to assist and promote labor and laboring classes through education, charitable activities, counseling and support facilities.

Unity House is looking for concerned citizens who are willing to abide by and further the principles of Unity House, Inc.

Friends of labor, members of the AFL-CIO, the Teamsters and the Hotel and Restaurant Employees and Bartenders Union may apply for membership either by requesting an application form from the Unity House Membership Committee, 460 Ena Road, Honolulu, Hawaii 96815 or by applying in person Monday through Friday 8:00 a.m. through 4:00 p.m.

...ment of Charter
...-Profit Corporation
File In Duplicate

EXHIBIT NO. 11

Filing Fee-$5.00
(Certified copy $.10 per page. Additional)

STATE OF HAWAII
DEPARTMENT OF REGULATORY AGENCIES
Business Registration Division
Honolulu

In the Matter of the Amendment of the Charter of Incorporation of

UNITY HOUSE, INCORPORATED

RECEIVED
MAR 11 1982
3:49 p.m.
DEPT. OF REGULATORY AGENCIES
STATE OF HAWAII

46810 2

CERTIFICATE OF AMENDMENT

The President and Secretary, respectively, of UNITY HOUSE, INCORPORATED a Hawaii non-profit corporation, do hereby certify that at a special meeting of the members of said corporation duly called and held at Waikiki Marina Hotel Hon., HI, on the 21st day of February, 19 82, for the purpose of amending the Charter of Incorporation, it was voted by not less then two-thirds of the members present at the meeting to amend the Charter of Incorporation of said corporation, as set forth in the copy of the Resolution attached hereto and made a part of this Certificate.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 5th day of March, 19 82.

DEPARTMENT OF REGULATORY AGENCIES
STATE OF HAWAII
Officially Recorded
On
March 11, 1982

Arthur A. Rutledge
President

George K. Kaisan
Secretary

STATE OF HAWAII)
City & County of Honolulu)

Arthur A. Rutledge and George K. Kaisan being first duly sworn on oath depose and say that they are the President and Secretary, respectively, of UNITY HOUSE, INCORPORATED that as such officers they are duly authorized to sign the foregoing Certificate of Amendment; and that they have read the said Certificate and attached Resolution, know the contents thereof, and that the same are true.

Arthur A. Rutledge
President

George K. Kaisan
Secretary

Subscribed and sworn to before me this 5th day of March, 1982.

Bernadette Kang
Notary Public, 1st Judicial Circuit,
State of Hawaii
My commission expires: 7/6/83

I hereby approve the foregoing amendment this 11th day of March, 1982.

By Russell Y. Yeaton
Corporation & Securities Administrator

Mary J. J. Patterson
Director of Regulatory Agencies

(See reverse side for instructions)

REGISTERED CANCEL 2.80
CERTIFICATION 2 Copies .80
TOTAL 5.80

321 7176 4/7/82 5.80 1

INSTRUCTIONS

The amendment to the Charter of Incorporation of a non-profit corporation must be approved at a meeting duly called and held for that purpose by the vote of not less than two-thirds of the members present at the meeting, or by a larger proportion of members as may be required by the Charter of Incorporation.

The exact name of the corporation as stated in the Charter of Incorporation must be stated in the heading and body of the Certificate.

The Certificate must be executed by any two officers of the corporation.

RESOLUTION

The Resolution must show that the Charter of Incorporation has been amended by:

1. Stating the article or articles or paragraph or paragraphs of the Charter of Incorporation as amended, or

2. Stating the Charter of Incorporation as amended in full.

The Certificate must be filed and the filing fee of $5 paid to the Director of Regulatory Agencies.

RESOLUTION

WHEREAS, The Members of UNITY HOUSE, Inc., desire that the Corporation continue to pursue its stated purposes and objectives as set forth in Article III of its Charter, viz:

1. To bring together in a benevolent and fraternal organization all members, past members, and friends of the American Federation of Labor in the Territory of Hawaii, including the Hotel, Restaurant Employees and Bartenders Union, the International Brotherhood of Teamsters, and the Transit Workers Union, Independent;

2. To support the Government of the United States of America, to promote democratic principles, and to inspire in its members a sense of civic responsibility;

3. To promote the true and proper interest of its members and to foster cordial and friendly relations between them and the members of other similar organizations;

4. To secure and retain the goodwill, confidence and respect of the community in the democracy and integrity of its members;

5. To develop a code of ethics among the members and to raise the standard of their living and working conditions and to wholeheartedly cooperate in every way with the unions in which they may be members;

6. To cooperate with all other orgainzations which have for their fundamental principles and ideals the American Form of Government;

7. To develop a feeling of benevolence and fraternal fellowship and friendship among all members and to devise ways and means to assist members and their families when in trouble and need or in distress;

8. To acquire and provide suitable quarters for the meeting, assembling, recreation, and education of members and their families; and

WHEREAS, The Members of UNITY HOUSE, Inc., desire that the Corporation continue to enjoy perpetual succession as set forth in Article IV in its Charter; and

WHEREAS, The Members of UNITY HOUSE, Inc., desire that the Corporation continue its existence as a non-profit Corporation as set forth in Article IX of its Charter, and

WHEREAS, The language of Article IX was adopted in December, 1951, and may no longer comply with Section 501(c)(3) of the Internal Revenue Code of 1954; and

WHEREAS, The Members of UNITY HOUSE, Inc., desire to comply with all relevant provisions of the Internal Revenue Code,

BE IT RESOLVED, That said Article IX, which has heretofor read as follows:

ARTICLE IX.

NON-PROFIT CORPORATION

The Corporation is not organized for profit and it will not issue any stock, and no part of its assets, income or earnings shall be used for dividends or otherwise withdrawn or distributed to any of its members, except upon liquidation of its property in case of corporate dissolution.

shall hereafter read as follows:

ARTICLE IX.

NON-PROFIT CORPORATION

The Corporation is not organized for profit and it will not issue any stock, and no part of its assets, income or earnings shall be used for dividends or otherwise withdrawn or distributed to any of its members, except, that upon the dissolution of the Corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all the assets of the Corporation exclusively for the purposes of the Corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by the Circuit Court of the First Circuit, State of Hawaii, exclusively for such purposes or to such organization or organizations, as such court shall determine, which are organized and operated exclusively for such purposes.

Chairman ROTH. Thank you, gentlemen.

At this time we would like to call forward Mr. Arthur Rutledge.

Mr. Rutledge, would you raise your right hand?

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. RUTLEDGE. Yes.

TESTIMONY OF ARTHUR RUTLEDGE, FORMER PRESIDENT OF LOCAL 5, HONOLULU, HAWAII

Chairman ROTH. Mr. Rutledge, please give your name, address, and introduce your counsel.

Mr. RUTLEDGE. My name is Arthur Rutledge, my address is 1323 Wayor St., Honolulu.

My counsel is Mr. Leslie Scherr, a practicing attorney in Washington, D.C.

Chairman ROTH. Will you please proceed with your statement?

Mr. RUTLEDGE. Mr. Chairman and members of the subcommittee, I welcome the opportunity to appear before the subcommittee today to discuss the very important issues raised by the witnesses who today preceded my appearance.

As you know, I have been intimately involved with the organized labor movement in the Hawaiian Islands for the past 44 years. By way of background, in 1913, when I was 6 years old, my family emigrated from Poland to the United States. We resided in various parts of the country and, as I grew into adulthood, I worked at various jobs. My last job on the mainland was as a bartender in San Francisco. In 1938, I moved to Hawaii.

When I first arrived in the Territory of Hawaii, since I had a transfer card from local 41 of the Bartenders' Union, San Francisco, I transferred into the then newly formed local 5 of the Hotel & Restaurant Employees Union in Honolulu. At that time organized labor on the islands was relatively nonexistent; there was no unified labor movement on the islands.

For example, the employees in the service trades and in the private sector were not unionized. The economic and working conditions existing in Honolulu were deplorable. I saw that a need existed and became actively involved in the organization of the local, with a view toward working to improve the wages, working conditions, and benefits for its members. And while I first became involved in organizing efforts for the Hotel & Restaurant Employees Union, Local 5, in about 1944 we had consolidated the Dairy Workers, Gas Workers, and Brewery Workers into local 996 of the International Brotherhood of Teamsters. Because of my organizing efforts on behalf of local 5 and local 996, I was elected president of both locals.

In 1951, the Hawaii Federation of Labor purchased a piece of property in Waikiki and a small house which we moved onto the property. The Hawaii Federation of Labor, which later legally changed its name to Unity House, Inc., was established as a nonprofit, tax-exempt corporation in accordance with Hawaiian law with stated purposes separate, distinct and apart from those of either union local. We moved the offices of both local 5 and local 996 into the house, which

later became known as Unity House. The objects and purposes of Hawaii Federation of Labor, as set forth in article III of its corporate charter are—and I am quoting three pages here—since you have the record, for the sake of time, I will skip reading the objects and purposes.

Chairman ROTH. Your full statement will be included in the record as if read.[1]

Mr. RUTLEDGE. In that the two local unions were sharing a common facility, the Unity House established a charge for each union in the amount of 50 cents per month per member.

This money was used to defray the costs of rent, telephone, clerical, and secretarial help, printing, copying, supplies and other such office overhead and equipment.

Later on the 50 cents per month was increased to $1 per month per member and that charge to the local unions remained the same for the duration of time that each respective local used the Unity House as a headquarters.

By 1956, we realized that the small house had become inadequate to provide all of the services and facilities required by the locals. The membership of each of the locals had grown substantially over the years. We razed the small house and built in its place a six-story office building. In addition to being tenanted by local 5 and local 996, this building has also housed the Hotel Workers Pension and Health and Welfare Trust offices, the Dairy Workers Pension and Health and Welfare Trust offices, the Teamsters Pension and Health and Welfare Trust offices, two law firms, a travel agency, a mental health clinic and the Variety Club. Local 5 moved its offices from the building in early 1980.

As tourism increased in Hawaii, the Unity House realized that there was a need for a facility for the training of Hawaiian Islanders in the growing hotel, restaurant and bartending industries. Accordingly, in 1972 Unity House built the Waikiki Marina Hotel on land that it owned which adjoined Unity House. The ownership and management of the hotel was placed in a newly formed corporation, organized under the laws of the State of Hawaii known as Waikiki Marina, Inc. All of the stock of that corporation is owned by Unity House, Inc.

Whatever moneys the hotel has generated have been used for and applied to the operation and maintenance of the property and the payment of the salaries of Waikiki Marina Hotel employees. Any profits realized by the hotel have gone into Unity House, Inc., to be used for its objects and purposes as set forth in its corporate charter.

As the locals grew and the potential for conflicts increased in the absence of a joint council or joint board of the respective internationals of the Teamsters and the Hotel Workers Unions on the island, in 1970 we decided to form the Unity Council. The council acted as an interlocal coordinating council for the ultimate benefit of the employees of the respective locals and as a unifying force coordinating organizing activities throughout the islands. Subsequently the Teamster local was divided into two separate locals and a third local was chartered.

Consequently, the International Brotherhood of Teamsters chartered Joint Council 50. This new joint council assumed the responsi-

[1] See p. 179 for the prepared statement of Arthur Rutledge.

bilities formerly exercised by the Unity Council on behalf of the three Teamster locals and Unity Council was subsequently dissolved. Unity Council was never a separate corporation or entity but operated merely as a branch of Unity House.

Mr. Chairman, I take pride in whatever role I have had in the growth of organized labor in the State of Hawaii. When I first came to the islands, local 5 had less than 100 dues paying members.

As of September 1978, when I completed my terms as president of local 5, it had a dues paying membership of in excess of 10,000 members. Similarly, during my leadership of local 996, the membership grew from less than 2,000 dues paying members to nearly 6,000 members. No less heartening has been the success of the Unity House. What began as a dream and an experiment more than 30 years ago has become more successful than anyone could have dreamed possible.

While much of Unity House's current financial worth has resulted from the tremendous appreciation of land in Hawaii, it has grown from literally nothing to an organization with assets currently valued at between $15 to $18 million. In addition to its financial success. I believe that Unity House has been a major factor in the success of organized labor in the islands. It has provided resources, meeting halls, printing facilities and support to numerous unions, including locals 5 and 996.

Through the hotel, it has provided many Hawaiian islanders with the training and experience necessary to obtain jobs serving Hawaii's important tourist industry. In short, I believe that the success of Unity House is a valuable lesson which could be applied in other areas to strengthen and maximize the resources of organized labor.

I come before this subcommittee pursuant to a subpena issued by its chairman in order to respond to your inquiries regarding these matters to and discuss the success of Unity House. As I stated at the outset, I welcome this opportunity to appear and to answer questions concerning these issues.

However, I am compelled to note that there have been various allegations circulated about my having received personal gain from the various positions which I have held in locals 5 and 996, the Unity House, the Unity Council, and the Waikiki Marina Hotel.

To this subcommittee I state categorically that, with the exception of the salaries which I have earned and drawn as president of local 5 and as president of local 996, I have never accepted or received any money or other consideration from any of the entities that I have mentioned.

At this time I would like to point out that expenses that I have received at the rate of about $300 a month have been paid through what is known as the Unity House business account and anything I did not spend has accumulated and I think there currently are several thousand dollars in that account.

And with that, gentlemen, I am prepared to go ahead—or let me finish this—since I became involved in the American labor movement 44 years ago, the movement itself has changed drastically. I was one of the first labor organizers in what was the then Hawaiian Territories. The way we organized in the thirties and forties was the way things were done back then, and I guess I am among the last of that breed of labor leader. I know things have changed. Things are conducted

differently from when I was first on the picket lines, helping and trying to build the labor movement in the Pacific. I may have made some mistakes along the way, but I have been scrupulously honest with all funds of all entities which have been entrusted to my control. I have devoted all of my efforts for the benefit of organized labor and the members of local unions with which I have been proud to be associated.

Mr. Chairman, I now will be pleased to respond to the questions of the subcommittee and its staff.

Chairman ROTH. Thank you, Mr. Rutledge.

First, let me say, I have read with great interest your statement, and I don't think there is any question of what you can take considerable satisfaction in much of your accomplishment as a labor leader in Hawaii during a very fascinating period.

It is not our intent here today to try to judge you by today's standards. What we are really interested in is determining two things: One, what needs to be done to protect the rights of the members of local 5 and other unions, and two, whether or not the Labor Department has administered the laws on the books as aggressively as I think they should.

One of the statements that has been made, or you have been quoted as having made, is the purpose of creating Unity House has been to shield the union assets, the local assets from the international.

What did you mean by that statement?

Mr. RUTLEDGE. I am surprised that that remark, that facetious remark I made to the investigators was even brought to your attention, because in my discussions with them, it was sort of a freewheeling deal, and I think I pointed out at the time that I had problems with both international unions. This establishment of Unity House, originally Hawaii Federation of Labor, would be separate and apart from the two unions, and could possibly be there to help other unions.

I did not use the word shield. It is impossible to shield anything because both unions knew of the Unity House, both unions knew it was there, and it was sort of a novelty. I discussed the establishment of Unity House with one of the vice presidents of the Teamsters Union in 1947, and he told me then, he said:

> You are going to do what you want to do, but if you want my advice, don't build up any big treasuries, spend the money organizing, and then nobody will want your job if you have no money, and the big membership that you may have will support you.

He was right, I was wrong. I did what he said I would do. Maybe that was because I was young and brash, I don't know.

Chairman ROTH. Well, Mr. Rutledge, both representatives of the General Accounting Office, as well as a member of our staff, have quoted you as making this statement, that you established Unity House to shield union assets, so that it apparently is something that you have repeated yourself on.

Let me point out, it is my understanding that for several years the funds paid over both by local 5 and the Teamsters was noted as dues in the union's books, is that right?

Mr. RUTLEDGE. I think it was carried both that way and—I'm trying to think way back as the reason for the—prior to that. It was carried as contributions, I think, and I think we had a note by the State that they wanted taxes on that. So the person that we had taking care

of our accounts at that time pointed out to the State auditors that this money was a sort of fee or reimbursement for services rendered. They got into a hassle whether or not they should pay the State tax and then they finally started calling it dues.

Chairman ROTH. But in any event, your own union records did reflect these payments as dues?

Mr. RUTLEDGE. They said that, but the money went there as reimbursement for services rendered.

For example, here——

Chairman ROTH. Before you go on, let me just know, the union's books did show these payments as dues in fact?

Mr. RUTLEDGE. Showing them——

Chairman ROTH. First, is that correct?

Mr. RUTLEDGE. That is the necessary wording that they were dues, dues for what, for who?

One of the deficiencies of our bookkeeping stems——

Chairman ROTH. Well, certainly, I think it would have to be admitted that that is at least some indication that at one stage these were looked upon which had a paricular meaning, and which would at least seem to support that these were union funds.

Now, legislation was adopted back in the fifties to require disclosure and to protect the rights of the union members as to funds that properly belong to them, and you would have no disagreement with that.

Mr. RUTLEDGE. With the law?

I can't disagree with the law, I didn't make it.

Chairman ROTH. But you agree that is important in the union movement, that any funds belonging to the union are protected for the benefit of the membership?

Mr. RUTLEDGE. That is what the law says, I have got to presume that is the way it has got to be.

However, before we get off of that, if I may——

Chairman ROTH. Sure, please proceed.

Mr. RUTLEDGE. It has got to be explained that this money, by pooling, by putting things together, call it a merger of funds, or whatever you want, you can buy more because you buy wholesale. We bought for less money services to the union, bookkeeping services, clerical services, and so on.

For example, if you will indulge me for a time, at the time local 5 pulled out of Unity House, they were paying Unity House about $10,000 a month in fees or dues or whatever you want to call it. When they left, we had in local 5 about 12 employees.

We saved, at the time, about half a million a year in local 5. But shortly thereafter, the number of employees grew from 12 to 36 to 39, up as much as 42, and in the last 2 years, they have spent over $3 million, gone in the hole, and of the $3 million, about $400,000 of it went to lawyers.

So you see, being in Unity House—and I might say watching the money, we benefited.

Now the same thing holds true for the Teamster Union.

In the last 2 years, with fewer members, we have saved about $1 million. So by merging and buying from—for want of a better word,

say wholesale, buying these services wholesale through Unity House, we benefited the membership.

Thank you for letting me explain that.

Chairman ROTH. Mr. Rutledge, let me ask you this question. How were the dues set? Were they set permanently by you or how?

Mr. RUTLEDGE. No, we would sit around—you must remember that both unions had executive boards, I was the president of both at the time. We would sit and say, we can't do that, we need this, we need that. So we were getting more members, and at a certain period of time, we were taking in more members, organizing more members because the hotels were expanding.

So it naturally cost more, so we did agree, and we paid the additional money, we agreed what it might be, and even with that, they saved a lot of money.

Chairman ROTH. When you talk about the board sitting around together, you were president of local 5?

Mr. RUTLEDGE. Yes.

Chairman ROTH. You were president of the Teamster local?

Mr. RUTLEDGE. Yes.

Chairman ROTH. You were also president of Unity House?

Mr. RUTLEDGE. Yes.

Chairman ROTH. So that it would appear that if Unity House was indeed separate, you were in somewhat of a conflict of interest in your position, because you were representing the unions on the one hand, and on the other hand, you were head of the organization providing the services, so that would be a conflict of interest, would it not?

Mr. RUTLEDGE. It could not be—that is, other people may say, as I heard here, arm's length, short length, any length. There was a common objective, and that was to benefit the members, both as beneficiaries of Unity House, the community, and that is what unions are supposed to do. And the record is pretty clear that we may not have crossed every "t" and dotted every "i", but we prospered, and our members prospered because at the time the new administration took over local 5, they had one of the finest contracts in the country, and one, I am told, with the best pension program and health and welfare program of any union within the Hotel Employee & Restaurant Employee International Union, and maybe many others, and I am very proud of that.

Chairman ROTH. Well, I am not going to challenge the statement about the benefits, but what I am concerned about is that it appears that either these agreements were the result of negotiating where there is a conflict of interest or not an arm's length deal—or on the other hand, it would appear that these organizations, two unions, Unity House, were all treated as the same, after all, you headed all organizations, so that it would appear that there was a lack of separation between these entities.

Do you agree with that?

Mr. RUTLEDGE. I don't know whether you are asking me to pass judgment on a legal question of commingling and arm's length and all of these things.

I never thought of it in those terms. I don't know what this subcommittee will say about it. I don't know what the Labor Department will say about it, but the facts are those that I have told you. We prospered

and we did well, and as I say, if I did not cross every "t", if I was remiss, and as I said before I left Honolulu—if I did anything wrong, they'd better do what they are going to do to me before I get too old.

Chairman ROTH. Mr. Rutledge, the question has come up about the building of a hotel.

Do you think as a matter of policy, it is wise for a union to undertake building a hotel when it is responsible for organizing the workers in the hotel? Does that seem like sound labor policy to you?

Mr. RUTLEDGE. Whether it is building a hotel or doing anything else, I don't think any union should be deprived of what may be an inherent right under our system to participate in this system. Do what the boss does, make an extra buck. I don't think there is anything wrong in that. I was looking forward toward the time, and the fact it is here now—for example, I had hoped there would come a time when through Unity House we would be able to assist labor organizations so that they would not be able to go out and say all the union wants is your money.

We could perform a lot of the services for them, by means of having this money, and using it for the purposes that we have outlined in our charter.

I just don't conceive of anything wrong, but I can understand people figuring, what the hell, it could not have done anything—just as there was a newspaper reporter in Honolulu, he wrote a book on the labor history in Hawaii, and I was investigated at the time by the task force. They had me up there and asked a lot of questions.

The fact of the matter is I announced ahead of time, stupidly, that I expected that I would be indicted because the task force, if they are after you would get you, and I believed the newspaper propaganda.

So I got up there and this newspaper reporter asked me, he said, "With all the money they've got, you know me, I'm your friend, you can tell me, a little of that had to rub off." He said, "It had to." He said, "You would not be human."

I said, "You look at it, you figure it out." Maybe that's the trouble, maybe I should do what the newspaper reporter says other guys do, they take the money and then run away.

I don't know, I hope I find out before I get too old.

Chairman ROTH. Just one further question, Mr. Rutledge.

It is my understanding that when the hotel was constructed, one of the reasons given for it was that it was going to be used to help train employees for hotel work. In fact, that never really happened.

But perhaps even more important from the standpoint of your responsibilities as the head of the union, there were a number of instances where, as I understand it, where the other hotels objected to your union trying to organize them, because they said you were in competition with them; as a result, those efforts ceased so that it could be constructed that it did have an adverse effect on union business.

Mr. RUTLEDGE. No, that is not the way it happened. What really happened was, we were doing pretty good—there is another union in Hawaii that is also organizing hotel workers. They are known as the Longshoremen's Union, and at the time we set the hotel up, we are on a collision course with them.

So their attorneys were pretty sharp and smart; so they brought the issue up.

After they brought the issue up, then the proper attorneys for the employees, the employees' counsel, and therefore after, the attorneys, every time we went to organize anything, they would walk out on this. And they did pretty well at it, the lawyers would understand those circumstances.

And we kept expanding in spite of that. But we could not get an answer through the department—or through the NLRB.

For instance, we had a case over there for 2 years, they won an election. Prior to the election, the employer objected to our trying to bring that organization in with us alleging that it was a conflict of interest for Unity House.

They never had a nickel with us.

So finally they thought they could win. The election was conducted and the union won. Then they brought the same thing up all over again. I wish you would check on the NLRB, really.

But the NLRB is still sitting on its haunches and the people over there have gone on for 2 years and we can't find a thing.

Chairman ROTH. Well, it may be that the matter was brought up by a rival union.

I guess one of my concerns would be that by going into the business itself would certainly enable that kind of——

Mr. RUTLEDGE. I don't know, it gave them an excuse, I would agree with that. But these lawyers are sharp, they would never let the case go all the way through and in the meantime another case would come up, and I don't think it hurt us much because we were organizing then anyway.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you. I just have two questions.

First, Mr. Rutledge, the Waikiki Marina Hotel, is that currently organized by your union?

Mr. RUTLEDGE. We had a contract there. We wrote the same contract that the Royal Hawaiian Hotel had at its outset. And the Labor Board came in and they voted that agreement.

And since that time, they have a—pending before them today, the National Labor Relations Board—a petition by a local Triple 5 (555) of the Hotel Workers International Union, to conduct an election and it has been there for about 1½ years, and they refuse to move on it. They refuse to give a reason, but to get back to your question here, we have two contracts over there.

One is for the larger hotels, one is for what they call a class B hotel.

Senator RUDMAN. How long have they been organizing the members of the union?

Mr. RUTLEDGE. Which, class A?

Senator RUDMAN. Either.

Mr. RUTLEDGE. Class A, since 1940.

Class B hotels were organized in the last 5 years, or 6 years, thereabouts, and I understand that the terms and conditions of the class B hotels, under which Waikiki Marina would come, are maintained by the management of the Waikiki Marina.

Senator RUDMAN. What year did the Waikiki Marina Hotel start operations?

Mr. RUTLEDGE. About in 1973 or 1974.

Senator RUDMAN. And from 1974 up until now, am I correct in saying that those employees have not been members of your union?

Mr. RUTLEDGE. Some of them I think are paying dues to either one or the other of the two unions, but there is no formal contract because the National Labor Relations Board forced us to sign an agreement stating that we would stop doing what we were not doing.

Senator RUDMAN. What year was that?

Mr. RUTLEDGE. I don't know, this is about—I guess maybe 5 or 6 years ago.

Senator RUDMAN. At any rate, you have answered the question. They have been and they have not been, and it is now subject to litigation.

Mr. RUTLEDGE. Yes.

Senator RUDMAN. Second, Mr. Rutledge, no one has produced testimony here today, nor in our investigations, of what we have found in other investigations, but we are looking at the laws as they exist to protect members of labor unions.

The chairman stated that is the only purpose, the purpose is not to disprove you are dishonest, or do anything wrong, we just want to see how you operated this union and whether someone maybe less honest than you may have opportunities to operate there and do things they shouldn't.

With that in mind, I want to go over some transactions here. You pooled your personal funds along with funds from the security fund, from local 5, from local 996, from the joint board, from Unity Council, from a whole range of activities in which those funds were all pooled together, including your own personal funds.

Do you think that was correct?

Mr. RUTLEDGE. Well, perhaps—I think it was all right at the time. Today I would not do it again.

Senator RUDMAN. Why not?

Mr. RUTLEDGE. Because I don't think it is right, and I found out when I come——

Senator RUDMAN. Do you see any danger at all in having a union; a person powerful in the union, having the ability to take funds that belong to the members and pool those funds with his and his wife's personal funds, albeit all ending up in the right place when it is all over; do you see anything wrong with that?

Mr. RUTLEDGE. You did not tell the whole story.

Senator RUDMAN. You tell me the rest of it.

Mr. RUTLEDGE. Now at that time we were—the only thing I can think of is the word obsessed.

Senator RUDMAN. Of what?

Mr. RUTLEDGE. Obsessed with the idea of getting more money and getting the highest interest we could. So one of the gals in the office kept in touch with the banks as to when the rates were going up and down, and I remember the days when 4 percent was pretty good, 6 percent was better, now it is 15—I don't know where we are going.

So the more interest we could get, the better it was.

In order to get a jumbo certificate, which was the highest interest you could get, we pooled our money and then when it came in, she gave us our shares. We would not do that again, because, as I said, it does not look right, and I have learned this term, commingling of funds.

Senator RUDMAN. As a matter of fact, Mr. Rutledge, you, yourself, were able to get a much higher interest rate for your $12,000, or $15,000, or $20,000 by commingling it with the funds of your union members, although you certainly did nothing wrong, you did not steal any money, but you were able to get a much higher rate on a $150,000 CD than you might have gotten for a $12,000 CD; is that correct?

Mr. RUTLEDGE. No, let's stick to the facts.

When we put that in there, we put the funds in so that the union, which had at that time, and most of the time, I think, the biggest share, that they would be able to get the higher interest.

Senator RUDMAN. That is true, we don't argue that, they certainly did, but you did also.

Mr. RUTLEDGE. I may have made—I don't know.

Senator RUDMAN. Of course you did, you got the same rate they got.

Mr. RUTLEDGE. Well, how much was that?

Twenty dollars a month.

Senator RUDMAN. Let me repeat my question.

My question is this, do you now see something incorrect with union officers commingling their own personal funds with the union's funds, no matter what the reason? Do you see something wrong with that?

Mr. RUTLEDGE. After being here, that is absolutely verboten, it is unforgivable.

Senator RUDMAN. It is also against the law.

Mr. RUTLEDGE. That remains to be seen yet, and if it is, I hope they catch me before I get too old.

Senator RUDMAN. Thank you, Mr. Chairman.

Chairman ROTH. Mr. Weiland.

Mr. WEILAND. The GAO said that Unity Council existed at least since 1959—according to the GAO.

Your statement says that it was established in 1970.

Mr. RUTLEDGE. I really could not tell you, because the record will speak for itself, and our records are not available, I think for two reasons: We kept, as has been shown here, in one office, all the records and everything. But immediately when we had our elections in 1979 and 1980, I am told by staff members that the person who was a trustee for the Hotel Workers International Union of Local 5, came in with a newly elected officer and they came in there like gangbusters and took everything and put them in the boxes and I have never seen them since, and I didn't know until just the other day, when I was looking for the records, they told me what happened.

Furthermore, the task force had nearly all of our records and when your investigating subcommittee came over, we gave them the records, all they had, and the task force had the rest, they would not give them back to us.

So finally somehow or other, they drove a truck up and gave us all the records and we turned them over to you folks. But there has to be some records somewhere, and I just, under those circumstances, cannot be of any more help, and I think your group over here will tell you that they were there for 6 months and checked everything, and we withheld nothing, and they said some records were not available.

Well, all I can do is look for them.

Mr. WEILAND. You withheld the Unity Council business records, didn't you?

Mr. RUTLEDGE. I don't know.

I thought they knew about it, when they said Unity House, Unity Council, I thought that all went with them. There was no hiding of anything from them.

Mr. WEILAND. Well, would you give the staff the Unity Council business account records now?

Mr. RUTLEDGE. You can have them all, yes.

Mr. WEILAND. We can get your commitment on that.

Mr RUTLEDGE. Oh, sure. I think one time—you folks were going around there asking people in the community questions about me and I thought you were going to do business with us, and they said they would keep it quiet, and they went to the bank, even, and I think the bank—somebody went to the bank, I don't know. But any records we have you are welcome to, but I assure you when you get through reading the records, I will take the advice of my attorneys—I never pay attention to them, but sometimes you have to—and keep only those records which we need, and the attorneys say to save records for 5 years. Some laws—I don't know, but we got records, I'm a packrat and I have records from 30 to 40 years.

Mr. WEILAND. Thank you, Mr. Chairman.

Chairman ROTH. Mr. Rutledge, I think that is all the questions the panel has of you.

I would say that as I listen to you, the one factor that becomes clear is that the Department of Labor down through the years has not provided the kind of guidance in forming policies that I think it is expected to, but I thank you for being here.

Chairman ROTH. Our next witness is Mr. Tam.

Please raise your right hand.

Do you swear the testimony you will give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TAM. I do.

Chairman ROTH. Please be seated.

TESTIMONY OF RICHARD TAM, CURRENT SECRETARY-TREASURER OF LOCAL 5; ACCOMPANIED BY ARTHUR Y. PARK, COUNSEL

Chairman ROTH. You can read your statement or summarize it.

In the event you summarize it, it will be included in its entirety as if read.

Mr. TAM. First of all, I am Richard Tam. My home address is 1314 Victoria Street, Honolulu. Hawaii, and my attorney is Arthur Park, with the law firm of Gill, Park, Park & Kim of Honolulu, Hawaii.

I am currently serving as the secretary-treasurer of the Hotel Employees & Restaurant Employees, Local 5, AFL–CIO and, as such, I am its chief executive officer.

I have been a continuous member of local 5 from 1956 to the present. I was hired as a business agent in 1956 and appointed secretary-treasurer in 1971 when the former secretary-treasurer, James Chock, died.

I served in both capacities until 1977 when I was terminated by Arthur A. Rutledge, the then incumbent chief executive officer, after announcing my intention to oppose him in the local 5 election to be held that year. It should be noted that from its inception—sometime

around 1939—until I was elected secretary-treasurer in 1980, Rutledge had totally dominated local 5.

Although the regularly scheduled local 5 election was slated for late 1977, under local 5's bylaws and Federal law, it was not conducted until June 1978. The candidates supporting me and I won every office in that election.

Shortly thereafter, local 5 was placed under trusteeship by its international union. In 1978, I first filed a complaint with the U.S. Department of Labor for a supervised election and then filed a Federal court action to have the trusteeship removed. Both actions resulted in the removal of the trusteeship and a supervised election in January 1980. A majority of the candidates supported me and I was elected to the positions I hold today.

My first involvement in Unity House, Inc.—"Unity"—began in the late 1950's when, as a business agent for local 5, I was directed by Rutledge to solicit proxies for the election of officers and directors of Unity.

Since that time, I know of no membership meetings or elections of officers or directors being held. The first time I saw a copy of the Unity House bylaws was in 1978, shortly after my termination from local 5. I also learned at that time that according to the records filed with the State of Hawaii by Rutledge that I had been listed as a director of Unity since 1971 without my knowledge.

I first learned that I was allegedly a director of Unity in late 1977 when Rutledge's then secretary informed me that I was a director and asked me to attend a meeting of the board of directors.

At this meeting a resolution was introduced by Rutledge to give blanket approval to all of his past actions as president of Unity. Due to a defect pointed out by one of the other persons present, the resolution was withdrawn, and therefore, not acted upon. I did not attend any other meetings of the board of directors.

In 1978, certain long-time members of local 5 and the Teamsters and Allied Workers Union, local 996—local 996—including myself, learned that Rutledge was engaged in certain wrongdoing with respect to Unity and that it was not being run according to its charter, bylaws and State law.

Because Unity had received its major support from the members of local 5 and local 996 since its inception around 1951, in the form of monthly dues, we longtime members believed that the interests of the members of both local unions needed to be protected. Thus, we filed an action in the First Circuit Court of the State of Hawaii to have the State court appoint a trustee to assume control of Unity House to put it in working order—the complaint was later amended to include dissolution as an alternative.

Such an action, in the nature of a membership derivative action, was filed against Rutledge and Unity in December 1978 and is pending.

When I assumed office as secretary-treasurer in 1980, I was faced with a number of interconnected legal problems, which included the recovery of $1.7 million, plus interest, loaned by local 5 to Unity under the Rutledge administration and the recovery of certain real property interests owned jointly with local 996—which was and still is controlled by Rutledge. The purpose of the noted loan was to allow Unity to build a hotel called the Waikiki Marina.

Probably the most serious legal problem facing us was the fact that the existence and ownership of the hotel by Unity and the past connection between Unity and local 5 through Rutledge had given rise to conflict of interest charges by employers in order to defeat our organizing attempts.

In fact, these charges did cripple local 5's ability to organize new hotel units. The action taken by local 5 since that time to avoid any conflict of interest include the following: (1) the immediate cessation of any payment of dues to Unity; (2) the immediate termination of Rutledge and his alter ego, his son Anthony Rutledge, as employees of local 5; (3) the immediate removal of local 5's headquarters away from the Unity office building, which had housed local 5 under the Rutledge administration; (4) the vigorous prosecution of suits to collect the money owed by Unity and to recover local 5's real property interests; and (5) the vigorous defense against an ERISA based action filed by Rutledge, Anthony Rutledge and other individuals friendly to the Rutledges in the Federal district court for the district of Hawaii, which sought to replace me and my supporters with Rutledge, Anthony Rutledge and other individuals friendly to the Rutledges, as trustees of the local 5 pension and health and welfare trust funds.

These actions and others by local 5 were reviewed by the National Labor Relations Board in hearings pertaining to a consolidated petition for elections at the Holiday Inn Kauai Beach and Holiday Inn Waikiki Beach Hotels—37–RC–2546/37–RC–2555, respectively—and a single petition for election at the Hawaiian Monarch Hotel—37–RC–2647.

The NLRB issued two virtually identical decisions which absolved local 5 of any conflict of interest based on its present position.

As this subcommittee knows, I have cooperated fully with its investigators in Hawaii. Therefore, I also stand ready to fully cooperate with this subcommittee at this hearing today.

Chairman ROTH. Mr. Tam, in your prepared statement, you note that when you ran for office against Mr. Rutledge, several positions were terminated.

Why did you decide to run for office at that time?

Mr. TAM. Literally I have had it up to here. [Pointing.]

I lived for many years in a labor union that was undemocratic, fully dominated, and I felt that the time was right for a change.

Chairman ROTH. During part of that time you served as a director of Unity.

Were you ever involved in any discussions with respect to the payment of the so-called dues? Did you look upon the payments made by local 5 to Unity House as dues of something you gave any time or thought or consideration to?

What was the attitude of your fellow members with respect to those payments?

Were they aware of them being paid? Did they look upon them as payment of dues or payment of services?

Mr. TAM. Well, several things need to be corrected. I need to have the record straightened.

I did not serve as a director of Unity House. I was a member of the executive board of local 5.

Now, as to the payment of the moneys to Unity House. There have been many, many recitations by Mr. Rutledge, made in various meetings of the members, that these moneys were in fact payment to the corporation as an instrument for membership in the organization.

The members will recall that you are shareholders in this corporation, and by virtue of these payments, your membership is secured.

Chairman ROTH. I am not clear on your statement.

In your prepared statement you say "I first learned I was allegedly a director of Unity in late 1977 and Rutledge, then, secretary, informed me I was a director and asked me to attend a meeting of the board of directors.

At this meeting—you go on.

So you at least attended one meeting where you thought you were a director?

Mr. TAM. That is correct.

Chairman ROTH. Then you said you did not attend any other board of directors' meetings.

Are you saying your directorship was canceled or terminated or what happened, why did you not attend any other?

Mr. TAM. To begin with, after I was terminated from the staff, I was never informed or called to another meeting.

Chairman ROTH. So that took in the period of time when you announced your election as a new president?

Mr. TAM. I was in the organization, the Hotel Workers where the union and Unity House and all the other organizations were housed, and throughout the years I pretty well knew what happened there.

I know of no meetings ever held of the corporation.

Chairman ROTH. You were appointed secretary-treasurer of local 5 in 1971, so that—and subsequently I gather again, you were reelected in 1980. So you served as the appointed officer for that period of time?

Mr. TAM. Until the next term came about and then I was elected.

Chairman ROTH. So you were a key part of the union leadership.

During that period of time how would you describe the interrelationship between local 5, the Teamsters Union, local 177, Unity House, and Unity Council?

Were they treated pretty much as one and the same, or can you say from your personal observation how the relationship was?

Mr. TAM. The number of the Teamsters local was 996.

Yes, there was interchange of staff. There was common use of equipment, of services.

Chairman ROTH. When you say common use of staff, common use of equipment, do you mean Local 5, Local 996, Unity House, and Unity Council, all four of them, that their staff and equipment were commonly used?

Mr. TAM. Yes, there were many instances where members, where the staff was switched from one payroll to the others without knowing why, for performing the same work.

Chairman ROTH. In other words, their work was not changed?

Mr. TAM. Yes.

Chairman ROTH. You heard me ask Mr. Rutledge about the building of the hotel which would appear to create a conflict of interest.

What type of impact did that have upon local 5 membership?

Do you think the union suffered because of this conflict?

Mr. TAM. I believe the union membership today could easily have been in excess of 15,000 members had it not been for this conflict of interest issue.

For a period of about 5 years we were dead in the water.

Chairman ROTH. How many members do you have?

Mr. TAM. Now?

Chairman ROTH. Now.

Mr. TAM. 10,000.

Chairman ROTH. Do you think it is wise policy to permit a union to become involved in the very business in which it represents the workers?

Mr. TAM. I am totally against it. I think it is reprehensible. I think the conditions under which those employees work were a black-eyed unit.

Chairman ROTH. During the years you served in the union leadership, are you aware of the Department of Labor raising any questions with respect to these problems, these conflicts of interest?

Mr. TAM. I was aware of it when the NLRB and the 9th Circuit Decision came down alleging the conflict-of-interest issue, yes, I was aware of it.

Chairman ROTH. Has the Department of Labor been actively involved in the problems that you perceive involved in this union?

Mr. TAM. No, not at all.

Chairman ROTH. Not at all?

Mr. TAM. No, not at all.

Chairman ROTH. Not at all?

Mr. TAM. No.

Chairman ROTH. Mr. Tam, would you please provide us any information you might have concerning the true purpose of Unity House and how it compares with its charter-stated purposes?

Mr. TAM. This substantial background of Unity House, as Mr. Rutledge first stated, it was considered the Hawaiian—the name was Hawaiian Labor something—I cannot think of the name at this time—then it was changed to Unity House.

Just about that time there was some suit involving another union, and the union was the ILWU and I am familiar with the case because I was a student of labor relations at that time. But ILWU was involved in a strike, and there was a suit called Journal Spruce, it was alleging that the ILWU wrongfully picketed an employer out in the Northwest.

Now that suit sought to collect moneys from the local unions for damages, and the purposes—incidentally, the ILWU at that time formed a corporation called the ILWU Memorial Associates.

Now, if you look at the charter for local 5 and the memorial association, you will find some of the stated purposes for Unity House came out of that ILWU Memorial Association.

So to answer you more directly, I believe there were two original purposes, other than the laudatory self service purposes stated: One was to immunize the assets of the local union from any legal suit by an employer.

And, second, was to shield the assets of the union. These things are not something that were told only to your investigators, but repeated

time and time and time again, that this was one way to keep the international unions away from the local assets of the local union.

Chairman ROTH. Do you have any understanding as to why there was concern about the international union, why the then president wanted tc purportedly shield it from international?

Mr. TAM. Well, it goes back many years. Hawaii was a long way from everything else, and things were not running according to constitutional bylaws.

Things were done the way—they were done in a rough and ready manner. Nobody looked at bylaws or constitutions and operated from them.

It was always a fear of the international coming in and grabbing on to the assets of the organization.

There was another union, Electrical Workers Union, who tried a similar adventure, because they were trustee——

Chairman ROTH. Are you saying that there was concern that the international might come in and take over these valuable assets because they were valuable assets, or because they did not feel that the union was being operated in accordance with the union laws of the constitution?

Mr. TAM. Well, I can only reflect what I, at that time, felt—that there was considerable mistrust of the international union.

Chairman ROTH. What about today? Has the international shown any predatory dependence? Have they been concerned or are they interested in union assets, local union assets, pension?

Mr. TAM. I don't think they care.

Chairman ROTH. Why do you say that?

Mr. TAM. I think they know about the certification of the membership.

Chairman ROTH. Will you speak into the mike?

Mr. TAM. The sophistication of our membership, they know that—I certainly would not stand up for it.

Chairman ROTH. Have there been any recent efforts by Unity House to allow for the transfer of assets? If so, would you please explain?

[At this point, Senator Nunn entered the hearing room.]

Mr. TAM. I became aware of the document in which the charter of Unity House was amended, as stated by the GAO agent. I do know of the existence of a resolution to compensate Mr. Rutledge; in what manner, I don't know, for his services with Unity House.

Chairman ROTH. Senator Rudman?

Senator RUDMAN. Thank you, Mr. Chairman.

Mr. Tam, I have been looking over the lawsuit that now exists between the two factions in this organization, and I notice that in your statement here today, you refer to certain wrongdoings on the part of Mr. Rutledge, and then in the various counts of the lawsuit that has been brought, there are a number of allegations, which, of course, being a lawsuit are really allegations until proven.

But do you have any permanent knowledge, did you help prepare; did you help your counsel prepare this lawsuit that that is attached to your statement?

Mr. TAM. Yes, I did.

Senator RUDMAN. I would like to discuss some of those allegations with you, because they impinge to some extent on the discussions we were having with Mr. Rutledge.

For instance——

Mr. TAM. Senator, would this in any way jeopardize the suit that is pending before the court?

Senator RUDMAN. This is a civil suit. You can consult with your counsel, and if he does not wish to answer——

Mr. TAM. I will cooperate. I want to observe the integrity of that suit.

Senator RUDMAN. Please consult with your own counsel.

[Pause.]

Senator RUDMAN. I am going to speak about allegations that are part of the public record, nothing else.

For instance, in count 1, you make an allegation in this lawsuit that Mr. Rutledge—I will paraphrase—had a loan made to himself by the union in the amount of $25,000—or by Unity House, I mean, and filed in Hawaii, which paid no interest on it from 1964 until 1977, and upon which no principal as of the date of the suit had been repaid.

Were you permanently aware of that of your own knowledge?

Mr. TAM. Yes, I was.

Senator RUDMAN. You further state that Mr. Rutledge——

Mr. TAM. Pardon me, Senator.

Are you saying at that time, at the time of the suit?

Senator RUDMAN. Yes.

Mr. TAM. Yes.

Senator RUDMAN. I am speaking always at that point of time, at the time you helped prepare that.

What happened subsequently is a matter of record, I am sure.

You also stated that Mr. Rutledge used corporate, meaning Unity House assets, to repair and renovate his private residence and other real and personal property.

Did you know that of your own personal knowledge?

Mr. TAM. Yes, I did.

Senator RUDMAN. He used assets of the corporation to enhance Windward Partners, did you know that at that time of your own personal knowledge?

Mr. TAM. Yes, I did.

Senator RUDMAN. Then you made two other allegations, one, he occupied an amount in the hotel rent fee, or by paying less rent, and his son was permitted to use the penthouse rent fee for less money than market value.

Did you know that of your own personal knowledge?

Mr. TAM. Yes.

Senator RUDMAN. Was there any other wrongdoing not referred to in this suit that was referred to in your statement that you would like to testify about here today?

Mr. TAM. As of that time, yes. I have been reading the GAO fact-sheet, that brings other allegations that occurred before, but at that time I can't think of anything else.

Senator RUDMAN. At that time.

Mr. Chairman, I don't have any other questions, but in fairness to Mr. Rutledge and his counsel, if they want to supply for the record

any comments on those items I just discussed with Mr. Tam, I think you might want to allow them to do that, if they would like to supply it for the record, or unless you want to recall them.

Chairman ROTH. Mr. Rutledge, would you like to comment on——

Mr. SCHERR. This is a lawsuit which is presently pending, and although we appreciate whatever discovery we could make by sitting here listening, I don't represent Mr. Rutledge in that lawsuit. It would be rather presumptious to allow him to make comments here without his counsel representing him in that suit.

Consequently, if you will give us some time limits, we will be glad to provide whatever information we have.

Chairman ROTH. The Chair will agree the record will be open for 10 days if you want to supply anything.

Mr. SCHERR. Thank you. We appreciate that opportunity.

[The information subsequently received was marked "Exhibit No. 12," for reference, and follows:]

98-802 O - 82 - 11

EXHIBIT NO. 12

LAW OFFICES
SCHERR, KREBS & GITNER
SUITE 810
1800 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 775-0540

July 7, 1982

The Honorable William V. Roth, Jr.
United States Senate
Dirksen Senate Office Building
Room 3215
Washington, D. C. 20510

Re: Hearings Concerning Unity House
June 23, 1982

Dear Senator Roth:

On behalf of Arthur A. Rutledge, I would like to respond to your offer of providing us with an opportunity to supplement the record of the hearings held by the Permanent Subcommittee on Investigations concerning the financial and other relationships of Teamster Local 996, Hotel Workers Local 5 and Unity House, Honolulu, Hawaii. The basis of your offer was to permit Mr. Rutledge to answer to the allegations articulated by Mr. Richard Tam, based upon the civil complaint attached to his opening statement to the Subcommittee.

As you will recall at the time you gave us the opportunity to supplement the record, I informed you that this office did not represent the defendants in the civil action presently being litigated in Honolulu. I advised you that we would have to confer with such counsel prior to responding.

Mr. Rutledge, in his appearance before the Subcommittee, vehemently denied all accusations of any wrongdoing on his part with respect to the management of finances in the Locals as well as in Unity House, and he reiterates his denial of any impropriety with respect to either the Locals or the Unity House in dealing with their financial affairs.

That denial specifically includes the allegations made by Mr. Tam. In that the civil complaint and its various allegations are the subjects of litigation, we believe that the proper forum in which to respond to those allegations is in the court in which that case is now pending. We believe that it is not in the best interests of either the parties to that litigation or this Subcommittee's investigation to submit a detailed response to matters we feel have no foundation, and which we feel will be properly and fully addressed in the Hawaiian State Courts.

Accordingly, we appreciate the courtesy you have extended us in this matter. However, for the reasons given above, we respectfully decline your offer to supplement the record by specifically responding to Mr. Tam's public allegations.

Very truly yours,

Leslie Scherr

cc: Senator Warren B. Rudman
S. Cass Weiland, Chief Counsel
Howard L. Shapiro, Staff Counsel
Arthur A. Rutledge

Chairman ROTH. I don't believe Senator Nunn has any questions.

Senator NUNN. No, I don't.

Senator ROTH. Mr. Weiland?

Mr. WEILAND. Mr. Tam, this subcommittee is quite interested in some of the activities of the international and its officers, and the chairman asked you a question about possible predatory moves of the international.

Is it true that there has been an effort on the part of the international to merge the health and welfare fund or the pension funds of locals into the international?

Mr. TAM. I have no direct knowledge. There have been discussions, but I am certain that the current trustees, both union and others would resist any merger attempts.

Chairman ROTH. Would he yield?

You mean of your local union or the international?

Mr. TAM. The local union trust funds into any others.

Mr. WEILAND. You have no knowledge of any effort on the part of the international to merge funds of your local?

Mr. TAM. No, sir.

Mr. WEILAND. But you would resist such a move?

Mr. TAM. Yes, I would.

Mr. WEILAND. Why would you resist?

Mr. TAM. I think that the assets and level of benefits in the local trust funds far exceed those of international trust funds, and to dilute our assets into the fund with less benefits would be detrimental to our members.

Mr. WEILAND. We have heard testimony about a Unity Council business account which was used to reimburse Mr. Rutledge for expenses.

Are you familiar with that?

Mr. TAM. Yes.

Mr. WEILAND. Do you know if Mr. Rutledge submitted vouchers for those expenses?

Mr. TAM. I don't know.

Mr. WEILAND. What about the current practice? Do you require vouchers?

Mr. TAM. You are talking about local 5 now?

Mr. WEILAND. Yes.

Mr. TAM. I have an office manager whose daughter—well, I won't say it—but if you don't have a receipt, even though you have 10 witnesses and God saw you make a purchase, you will not get reimbursed.

Mr. WEILAND. Thank you, Mr. Chairman.

Chairman ROTH. Thank you, Mr. Tam.

[Whereupon, at 12:55 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

APPENDIX

UNITED STATES GENERAL ACCOUNTING OFFICE

STATEMENT OF

EDWARD A. DENSMORE, DEPUTY DIRECTOR

HUMAN RESOURCES DIVISION

BEFORE THE

ΓERMANENT SUBCOMMITTEE ON INVESTIGATIONS

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

ON THE

EXAMINATION OF FINANCIAL ACTIVITIES

AND THE DEPARTMENT OF LABOR'S OVERSIGHT

OF SELECTED UNION AFFILIATED ORGANIZATIONS

IN HAWAII

Mr. Chairman and Members of the Subcommittee, we are pleased to appear here today to report on the results of work you requested on the financial activities and the Department of Labor's oversight of certain union affiliated organizations in Hawaii.

By letters dated October 15, 1981 and January 18, 1982, you requested our assistance in examining the activities of the Hotel Employees and Restaurant Employees International union (HERE) and its Locals 5 and 555 in Honolulu, Hawaii, and Local 996, in Honolulu, of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America union (IBT). Your October 15 letter said that Locals 5 and 555, acting in concert with Local 996, had established a corporate entity known as Unity House, Incorporated, for investment purposes. The letter also said that the creation of an entity such as Unity House raises a question as to whether the provisons of Federal labor laws are being circumvented and the Department of Labor is aware of these actions.

In accordance with your request and subsequent discussions with your office, we were requested to (1) make a financial analysis of Unity House, another entity called Unity Council, and the Waikiki Marina Hotel, Incorporated, (the Hotel) which is located in Honolulu and is owned by Unity House, (2) determine Unity House's and Unity Council's relationships to Locals 5, 555, and 996, and (3) respond to various questions concerning the three entities and the role of Arthur A. Rutledge in their operation. In addition, you requested that we review Labor's oversight of Unity House and Unity Council.

We performed our work primarily in Honolulu, Hawaii, using records provided by Unity House, Unity Council and the Hotel in response to the Subcommittee's subpoenas. Many of the records required by the subpoenas were not provided and, as a result, we were not able to make a complete financial analysis.

Our analysis is based primarily on a review of the financial records of Unity House and the Hotel. We concentrated on the receipts and disbursements of the two entities. We were not

able to perform any detailed analysis of Unity Council's financial activities because most records were not made available to us. We also interviewed a number of individuals associated with the entities and we reviewed annual reports filed by the union locals with Labor.

Also, Local 5 voluntarily allowed us to review its cash receipts and disbursements journals and verify selected transactions recorded by Unity House, Unity Council and the Hotel. Our review covered the period January 1, 1975 to September 30, 1981, however, in some cases we reviewed records prior to 1975.

We also reviewed Labor's records in Washington pertaining to Unity House, Unity Council and Locals 5 and 996 from the early 1960s to the present.

At the Subcommittee's request we prepared a detailed Statement of Facts on the results of our review, and on June 18, 1982, we provided a copy to you. We understand that the statement has been provided to the Subcommittee members and has been made available to the public prior to today's hearings.

DESCRIPTION OF ORGANIZATIONS SUBPOENAED

Before discussing the results of our work, we would like to briefly describe of the various organizations included in our review. A chart depicting selected Arthur A. Rutledge affiliated organizations is included as appendix A. The chart was prepared for illustrative purposes only. It is not intended to represent control, chain of authority, or ownership.

Unity House is the organizational focal point of the subpoenaed organizations, the first of the three to be established, and the owner of the Hotel. It was incorporated in 1951 as a nonprofit corporation basically for the purpose of supporting and furthering the interests of labor in Hawaii. Arthur A. Rutledge has been president of the organization since it was founded.

Unity Council was established about 1959 and it supposedly was composed of a committee of local union officials. The council's purpose was to coordinate the organizing activities of Locals 5 and 996 which are affiliated with different international unions.

The Hotel was established in May 1973 under the laws of the State of Hawaii as a for-profit corporation. The Hotel was built by and is wholly owned by Unity House.

RELATED ORGANIZATIONS AND INDIVIDUALS

The subpoenaed organizations discussed above have close relations with union locals and several other related and affiliated organizations. These organizations loaned money to and borrowed money from the subpoenaed organizations, paid dues to the organizations, and shared facilities and staff. A brief description of the union locals and their relationships with the subpoenaed organizations follows.

Local 5, Hotel Employees and Restaurant Employees

This local, which is affiliated with HERE, was founded in 1938. Arthur A. Rutledge became its president the following year and remained so until August 1978.

In August 1978, following a disputed election, HERE established a trusteeship over Local 5's operations because (1) a majority of the Local's executive board had requested the trusteeship, (2) Local 5 failed to hold an election of officers in November 1977 as required by the bylaws, (3) Local 5 had almost become functionally inoperative, because of the confusion which resulted in lawsuits involving Local 5 officers and Labor, (4) extreme confusion existed because the duly elected Secretary-Treasurer, who had primary responsibility for conducting the election of officers, was allegedly removed by other officers of Local 5, and (5) a review of audit reports indicated a need to clarify the assets belonging to Local 5 members.

As a result of a Labor investigation, Local 5 had a court ordered election of officers--supervised by Labor--in January 1980. In the election Arthur A. Rutledge lost control of the union and was replaced as president. After the election, HERE removed the trusteeship.

Arthur A. Rutledge maintained his influence during the trusteeship, because he was a business agent for Local 5 and his son Anthony was an assistant international trustee of HERE. Arthur A. Rutledge was also an International Vice President of HERE from 1976 to January 1980, when he resigned as part of an agreement with HERE to promote harmony. He was succeeded by his son Anthony.

Local 5, in return for monthly fees, obtained office space and administrative and clerical services from Unity House until 1980.

Local 555, Culinary and Service Employees

This local is also affiliated with HERE. It was founded in 1974 to represent small and special groups of employees such as hospital and culinary workers. Anthony Rutledge, Arthur's son, was an officer of the local until 1979. Up to about that time Local 555 obtained office space and administrative services from Unity House at no cost.

Local 996, Hawaii Teamsters and Allied Workers

This local is affiliated with IBT. According to a news article, Arthur A. Rutledge founded this local in 1943 and since, has been its president. Local 996 occupies space in a building owned by Unity House and, in return for monthly fees, obtains administrative and clerical services from Unity House.

ESTABLISHMENT AND OPERATION OF UNITY HOUSE, UNITY COUNCIL, AND THE HOTEL

I would like to describe in more detail how and why each of these organizations were established and operated.

Unity House

Unity House's stated purpose, as described in its original charter, is to, among other things, bring together in a benevolent and fraternal organization all members, past members, and friends of labor in Hawaii. However, the real purpose Unity House was established, according to Arthur A. Rutledge, was to shield local union assets from both international unions. Our review showed also that Unity House has been used as a conduit for moving funds among union locals and union affiliated organizations.

Unity House established its financial base in 1953 by offering noninterest-bearing, nonnegotiable debenture bonds to union members and friends. Its campaign had a goal to collect $50,000; however, records were not available to show the amount it actually collected.

Since its original campaign, Unity House has been almost entirely dependent financially on Locals 5 and 996. Each local paid a monthly charge to Unity House of $1 per member per month.

In exchange for these payments, the locals apparently received administrative services and/or office space. According to Arthur A. Rutledge, the amounts the locals paid were established arbitrarily rather than based on the value of the services received. The main assets of Unity House are the Unity Building and the Hotel. In June 1980, these buildings were appraised at about $1.5 million and $12.5 million, respectively.

From January 1975 through September 1981 Unity House recorded $9.6 million in receipts. The union locals provided about $2 million, or over 20 percent of these receipts, in the form of dues/administrative expenses, loans, contributions, and other reimbursements. Union-related organizations accounted for about $4.6 million, or 48 percent, in loans, payments for miscellaneous costs, loan repayments, interest and from the dissolution of Unity Council.

Unity House was used as a clearing house for funds passing from one entity to another. Many of these receipts, for example, passed through Unity House as loans for construction of the Hotel and as repayment for these loans and interest. Unity House borrowed over $2 million from Local 5 during the period 1971 to 1977, primarily for the construction of the Hotel. Between 1971 and 1980 Unity House borrowed about $550,000 from Local 996--again primarily for the construction of the Hotel. Unity House also received similar loans from various union-affiliated organizations.

Unity Council

According to Arthur A. Rutledge, Unity Council was established as a coordinating committee for the organizing activities of Locals 5 and 996. He stated that this arrangement was needed because the locals were affiliated with different internationals--Local 5 with HERE and Local 996 with IBT. He stated, however, that Unity Council's organizing activities never really materialized.

Unity Council was never registered with the State of Hawaii and we were not able to determine if State or Federal income tax returns were filed. Although we could not locate documents relating to its establishment or its financial operations, it appears that Unity Council existed at least by 1959.

Unity Council was sustained financially the same way as Unity House--through monthly contributions from the union locals. Unity Council received about $4 million between January 1, 1970, and November 30, 1979. However, Unity Council had records showing the purpose and source of these receipts for only six years. During the time for which Unity Council records were available, they showed that about one-third of its receipts came from Locals 5 and 996. The remaining two-thirds came from redemptions of certificates of deposit and savings withdrawals. We were unable to document Unity Council's financial activities in greater detail because very few accounting records were provided to us.

Unity Council supposedly was disbanded in November 1979 and about $560,000 in assets such as checking and savings accounts, were transferred to Unity House. Our review disclosed, however, that a Unity Council business account remained active at least through February 1982. Moreover, we found that Locals 5 and 996 made deposits to the account and disbursements were made to Arthur A. Rutledge, the Diners Club, and other individuals. Although the Subcommittee's subpoena requested all Unity Council accounts and records, the existence of this account was never divulged to us by Unity House or Unity Council officials.

Waikiki Marina Hotel

Unity House constructed the Hotel as an investment and has always owned 100 percent of the hotel's capital stock. The Hotel, incorporated in 1973, is a 323-room high rise building in the Waikiki area of Honolulu. Arthur A. Rutledge said that, originally, the Hotel was intended for training prospective hotel and restaurant employees. He acknowledged that this idea proved impractical because the trainees needed to be interspersed with trained employees rather than concentrated in large groups.

In 1968, Unity House began to formally account for construction expenses incurred on behalf of the Hotel. Between November 1968 and August 1981, Unity House charged nearly $8 million, including over $2 million in accrued interest, to its hotel receivable account. These charges reflected expenses such as engineering services, demolition/site preparation, construction costs and accrued interest. Unity House borrowed money from (1) Locals 5 and 996, (2) union-related organizations, and (3) the First Hawaiian Bank to construct the Hotel.

The Hotel opened for business about 1974. It operated at a loss in 1975, at a profit from 1976 through 1979, and at a loss again in 1980. Overall, the Hotel has shown a net profit before income taxes of about $666,000. However, the Hotel has not distributed any of the profits. Instead, the Hotel has applied the profits to decrease its liabilities--primarily the construction costs paid by Unity House.

The Internal Revenue Service audited both Unity House and the Hotel for tax years 1976, 1977 and 1978 in connection with interest the Hotel paid Unity House on the construction loans. As a result of the audit, Unity House was required to pay income taxes of about $162,000, plus interest of about $45,000.

Interrelationship of subpoenaed and other organizations

Our work disclosed that the interrelationships between Unity House, Unity Council, the Hotel, Locals 5 and 996, and other affiliated organizations were extremely close and complex. For example, between 1971 and 1980, Locals 5 and 996, through Unity House, loaned about $2.5 million which was used primarily to construct the Hotel. The Hotel repaid principal and interest to the locals through Unity House.

At one time the organizations shared the same facilities, staff, and leader--Arthur A. Rutledge. The organizations paid expenses for one another, shifted employees from one to the other, and loaned money back and forth.

Also, Unity House, the Hotel, Locals 5 and 996 as well as Arthur A. Rutledge, members of his family, and employees of Unity House and the Hotel, pooled funds to invest in large denomination certificates of deposit to obtain higher rates of return. During our review we identified 14 examples where funds--ranging from $102,100 to $681,871--were pooled. Arthur A. Rutledge participated in eight of these transactions.

Because of these close and complex interrelationships, basic internal controls to safeguard the organizations' assets were seriously deficient. Particularly weak was the almost complete lack of separate duties for accounting personnel. Employees were allowed access to all accounting records for several different organizations and were involved in all phases of the accounting cycle.

Although a certified public accountant audited Unity House's financial statements, Unity Council and the Hotel records were not audited. Furthermore, none of the organizations required written agreements to document indebtedness or contractual arrangements. Perhaps the best evidence of the financial management and internal control inadequacies is that apparent embezzlements totaling at least $282,000--one of which was uncovered by our review--occurred in two of these organizations.

Role of Arthur A. Rutledge

Arthur A. Rutledge is the key individual associated with the three subpoenaed organizations and many of the related organizations. He has been president of Unity House since it was founded in 1951, and the key representative of Unity Council from 1959 until 1979 when it was disbanded. He was president of the Hotel from May 1973 to May 1974. He has not officially held a position in the Hotel since 1974; however, he is president of Unity House which owns the Hotel.

We also found that he controls the operations of the Hotel even though not an officer. The current president of the Hotel told us that he consults with Arthur A. Rutledge on major decisions affecting the operations of the Hotel. A former general manager of the Hotel also told us that Arthur A. Rutledge was in fact responsible for most of the significant decisions. A March 1982 National Labor Relations Board decision stated that Arthur A. Rutledge has controlled the day-to-day operations of the Hotel since it opened for business.

In addition to the subpoenaed organizations, Arthur A. Rutledge held key positions in at least 13 related and affiliated organizations. In 1978, for example, while he was president of Unity House and Unity Council, he was concurrently

--President of Local 5,

--Trustee for a Local 5 pension plan,

--Trustee for a Local 5 health and welfare plan,

--International vice-president of HERE,

--Trustee of HERE's pension plan,

--President of Local 996,

--President of Teamsters Joint Council 50 (a local Hawaii organization affiliated with IBT), and

--President of the Hawaii Pacific Cinema Development Foundation, Incorporated (Movie Production Fund).

A chart which illustrates the various positions Arthur A. Rutledge held and the timeframes is in appendix B.

In the early 1960's, Locals 5 and 996 each established a $100,000 trust fund for Arthur A. Rutledge. At September 30, 1981, the two trusts' value had increased to at least $388,000. Under the trusts' terms, when Arthur A. Rutledge retires he will receive the interest earned from the investments and the principal will revert to the locals. Apparently, he has not received any payments from these trusts to date.

REVIEW OF DEPARTMENT OF LABOR'S OVERSIGHT OF UNITY HOUSE, UNITY COUNCIL AND RELATED UNION ORGANIZATIONS

Our review of records at Labor's Washington office showed that the Department's Office of Labor-Management Standards Enforcement (LMSE) has not made any investigations per se of Arthur A. Rutledge, Unity House, Unity Council or the Hotel's operations. LMSE's only reviews of Arthur A. Rutledge, Unity House and Unity Council were made in the early 1960s as part of its reviews of Locals 5 and 966.

Labor-Management Services Administration (LMSA) officials, including a former Assistant Secretary for Labor-Management Relations and the former and present Directors of LMSE believe that Unity House and Unity Council are subject to the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). However, despite repeated requests from officials in LMSA and its predecessor agency--spanning a 21-year period (1961 to 1982)--Labor's Office of the Solicitor has never made a determination as to whether these organizations are in fact labor organizations under LMRDA, and thus subject to the act's requirements.

As a result, LMSE has never investigated or audited Unity House or Unity Council.

LMRDA, which was enacted in 1959, applies to labor organization (union) members, employers, labor relation consultants, and other persons as well as labor organizations and surety companies. LMRDA was passed to help eliminate or prevent improper and corrupt practices on the part of labor organizations, labor relations consultants, and their officers and represenatives. The act imposed Federal standards on labor organization activities to protect the rights of union members and the election of officers, and it established requirements for labor organization officials to report and disclose the organizations' financial and administrative practices.

It also imposed fiduciary responsibilities on labor organization officials.

LMRDA applies to all labor organizations and employees subject to collective bargaining agreements even if not union members, except organizations representing public employees working for a State or its political subdivisions.

Within LMSA, LMSE administers and enforces LMRDA. LMSE is assisted in carrying out its enforcement responsibilities by an Associate Solicitor for Labor-Management Laws in the Washington headquarters and a regional solicitor located in each of the six LMSA regional offices.

Labor's reviews of Unity House and Unity Council in the 1960s

Labor's only reviews relating to Arthur A. Rutledge, Unity House and Unity Council were made in the early 1960s and they were made as part of its reviews of Locals 5 and 996 and HERE's trusteeship of Local 5 in 1960.

To illustrate, the Bureau of Labor-Management Reports (the predecessor agency to LMSA) made a review in May 1960 at HERE's headquarters in Cincinnati, Ohio, to review the trusteeship of Local 5's operations, and a review in September-October 1960 in Honolulu to gather information on Arthur A. Rutledge, Unity House and Unity Council. Our review of the Bureau's reports show that they did not constitute an investigation of Arthur A. Rutledge, Unity House, or Unity Council per se. The first review was merely a gathering of, and reporting on, the reasons for HERE's trusteeship of Local 5 and its termination, and the second was a review to gather information on Arthur A. Rutledge, Unity House and Unity Council and their affiliation with Locals 5 and 996.

The Bureau's San Francisco Area Office also made a financial investigation of Locals 5 and 996 in November-December 1960. Its report pointed out that the two organizations, Unity House, and Unity Council, were financially dependent on the locals, but did not file any of the reports required by LMRDA. In March 1961, the San Francisco Office requested its Washington Office to rule on the status of Unity House and Unity Council under LMRDA.

In September 1961, the Commissioner of Labor-Management Reports formally requested such a ruling from Labor's Solicitor. The Washington and San Francisco Office made repeated requests for information on the ruling from 1962 to 1967.

In October 1967, the Washington Officials advised the San Francisco Office that the Office of the Solicitor did not expect to render an opinion in the near future on Unity House. It suggested that the San Francisco Office close its open 1961 case and reopen it when the Solicitor made a decision.

Thus, in November 1967--over 6 and one-half years after its investigation showed that Unity House had not filed reports under LMRDA and it had requested a determination on Unity House's status under the act--the San Francisco Office closed its investigation file. Moreover, as noted below, the Office of Solicitor had not, as of May 1, 1982, made the requested determination on Unity House's status.

Labor's reviews of Unity House and Unity Council in the 1970s

Labor's records showed no significant review activity concerning Unity House and Unity Council occurred until late in 1978. Labor's interest in 1978 apparently stemmed from the fact that HERE had again placed Local 5 under trusteeship in 1978. On November 16, 1978, the Director of LMSE had a memorandum prepared which addressed the nature of Unity House and Unity Council and whether they are subject to the provisions of LMRDA. The Director's memorandum stated that LMSE had concluded that Unity House and Unity Council are "trusts" in which labor organizations are interested as defined in the LMRDA.

On November 17, 1978, the Director, LMSE, submitted the memorandum to the Assistant Secretary for Labor-Management Relations. The Assistant Secretary, on November 20, 1978 raised two questions: (1) who are the legal "owners" of Unity House and (2) are dues money for Unity House collected through union auspices. The Assistant Secretary said if the second point is true, then Unity House and Unity Council are trusts under LMSE's regulations. The Assistant Secretary, concluded that in any case, LMSE should begin audits of Unity House and Unity Council.

Our review showed, however, that as of May 1, 1982, LMSE had not made any audits or investigations of Unity House and Unity Council.

Labor's review of Unity House and Unity Council in 1980s

LMSE's latest investigative activity concerned a complaint to the Secretary of Labor dated January 15, 1982, by the President of Local 5. The President's letter enclosed a demand for investigation of certain charges that the local's financial Secretary-Treasurer (Richard A. T. Tam) had used Local 5 funds to pay certain legal expenses for himself and others in violation of the fiduciary standards in section 501 of LMRDA, HERE's constitution and Local 5's by-laws. As of June 1, 1982, LMSE's San Francisco Office had not completed the investigation of the President's allegations.

LMSE officials told us that, when the current investigation of Local 5 is completed, it intends to follow-up with an investigation of Locals 5 and 996 and their relationship with Unity House and Unity Council. The Acting Chief, Branch of Criminal Investigation said that LMSE expects to receive 100 additional investigative positions in 1982, with one of the positions designated for Hawaii. He indicated that LMSE will then be in a better position to make a review of Unity House and Unity Council.

We also discussed LMSE's proposed investigation with the Director, LMSE who stated that he recently had received an opinion from LMSE's Branch of Interpretations and Standards on whether Unity House and Unity Council are labor organizations and whether LMSE has the authority to investigate their financial operations. The Director said that the opinion was prompted by LMSE's problems with Arthur A. Rutledge in the court-ordered Labor supervised election of officers for Local 996 held in December 1981. The Director said that, because of certain improprieties by Local 996 officials, LMSE has petitioned the Hawaii District Court that the election be rerun. LMSE's petition is still pending.

The Branch of Interpretations and Standards opinion reiterated and supported the conclusions in the November 16, 1978, memo by the former Director of LMSE (See page 16); and stated if LMSE believes that Unity House and Unity Council are trusts in which the labor organizations are interested, LMSE clearly has the authority under section 601 of LMRDA to obtain information to determine whether they are in fact trusts. Regardless of whether the entities are trusts, the Branch's opinion stated, LMSE has

the authority to investigate in order to determine whether the officers and employees of the two locals need to submit to LMSE reports entitled "Labor Organization Officer and Employee Report" (LM-30)--required from section 202 of LMRDA--listing things of value they received by Unity House and Unity Council.

The Director of LMSE told us that as a result of the Branch's opinion he believes LMSE does have authority to investigate Unity House and Unity Council and he plans to have the San Francisco Office initiate an investigation, hopefully, in 1982.

GAO OBSERVATIONS

As far back as 1961, officials of LMSA and its predecessor agency have raised questions concerning the operation of Unity House and Unity Council by Arthur A. Rutledge and their relationship to Locals 5 and 996. LMSA officials, including the Assistant Secretary of Labor-Management Relations, believed that Unity House and Unity Council were subject to LMRDA. He also suggested that LMSE audit the organizations.

Yet, to date, LMSE has not audited Unity House and Unity Council. In our opinion, the problem for over 21 years, seems to be a lack of a decision on the part of Labor's Office of the Solicitor to make a determination as to whether Unity House and Unity Council are labor organizations under LMRDA, and thus subject to the act's requirements.

We are encouraged by LMSE's current actions and comments, particularly the Director's comment, that LMSE has the authority to investigate Unity House and Unity Council and his plans to have San Francisco initiate such an investigation in 1982.

Mr. Chairman, this completes my statement.

98-802 O - 82 - 12

PREPARED STATEMENT

OF

CHARLES ALLEN

My name is Charlie Allen and I am currently a protected Federal witness as a result of my cooperation with the Federal Bureau of Investigation from 1978 to the present. As a Federal witness, I have testified in nine trials which have resulted in the conviction of eighteen individuals for offenses involving narcotics trafficking, racketeering, bribery, arson and Labor Management Reporting Disclosure Act (LMRDA) perjury. The testimony that I will provide for this Subcommittee is a result of over eight years of direct involvement with individuals such as Angelo Bruno, Phil Testa and Ralph Natale, Russell Bufalino and Anthony Provenzano.

My uncle, Frank "Blinky" Palermo was a member of the Bruno crime family when I was a young boy. Though I was not an actual "made" member of this group, I grew up in their midst and followed in the pattern of criminal activity set by my uncle who I admired. As a result I have known Angelo Bruno, Phil Testa and other crime family members for my entire adult life. It was through these associations that I developed a relationship with Ralph Natale.

I was released from prison in 1972. Tony Provenzano who controlled the Teamsters had put me with Jimmy Hoffa for a while. After that I was with Frank Sheerhan, a Teamster official in Wilmington, Delaware. Sheerhan was recently convicted in Federal court following my testimony against him. Around 1976 he and I had a falling out.

From 1976 until February of 1979 when I entered the Federal Witness protection Program, I worked for Ralph Natale as a body guard, driver, strongarm, and anything else he wanted me to do. During this time Ralph was Secretary-Treasurer of

Hotel Workers Local 170 in Camden, New Jersey. Ralph took over as Secretary-Treasurer after the former Secretary/Treasurer, Andy Chalako and Joey McGreal, the real power behind Chalako, went to prison in the late 1960s. When McGreal got out of prison he tried to regain control of the Local but was shot and killed in 1973.

I have had conversations with Ralph and Franny McDonald, another of Ralph's strongarms, where they both admitted being at the murder scene with guns. However, each took credit for actually firing the shots that killed McGreal, claiming the other lost his nerve. I believe that Ralph and Franny were actually responsible for McGreal's murder.

Through my uncle, my earlier criminal activity, and my dealings with Natale, I was thoroughly familiar with the fact that Angelo Bruno, Phil Testa, Nicky Scarfo and others were involved in organized crime activities in the Philadelphia and Atlantic City area. There is no question from my experiences that Bruno and his associates have sought to control casino related activities in Atlantic City. The involvement of Ralph Natale and Nick Scarfo in the struggle for control over Atlantic City was made quite clear during a meeting at the Centanni Restaurant in South Philadelphia sometime in 1978, around the time Resorts International opened in Atlantic City. Natale was part owner of the restaurant and the meeting was attended by Bruno, Scarfo, Long John Martorano, Natale and Frank Narducci. I drove Ralph to the restaurant and during the meeting I sat at a nearby table with Franny McDonald and Mike Marrone. Before we got there Ralph told me the purpose of the meeting was to settle a dispute between him and Scarfo over who would control the Hotel Workers union in Atlantic City and who would have control over who provides the laundry, glassware, meat, etc. to the hotels.

We couldn't hear all that was discussed during the meeting but afterwards Natale told me that Bruno had settled the matter by stating that Scarfo would be his man in Atlantic City with control over the services to the hotels, while Natale was permitted to organize hotel workers.

Ralph Natale's own involvement in organized crime activities can probably be best described by a series of conversations I had with him concerning firearms. There is a written report of these conversation and the dates because at this time I was reporting all my activities to the FBI in Philadelphia.

On October 2, 1978, Natale asked me to get a .22 automatic with a silencer. On October 5th he said he needed five guns with silencers. Natale told me they were for people "downtown" which I knew meant Angelo Bruno and his people. The next day, on the 6th, he asked for ten .22 automatics for a gang war and stated that "Long John" Martorano already had the ten silencers which would be fitted to the guns. On the FBI's orders, I told Ralph Natale that I would have to see a silencer to make sure I got guns that could be fitted. On that same day Ralph gave me a piece of paper on which was written "4 inch barrel 22 auto 10".

He did not give the silencer to me and then we got involved in a big narcotics deal and Ralph didn't mention the guns again.

During the time I was with Ralph Natale, he met with Angelo Bruno at least once a week, usually for lunch in the Cherry Hill or Philadelphia area. Ralph took orders from Bruno in all matters.

I know of about three times when Ralph met with the union's International President, Ed Hanley. The meetings were in New Jersey somewhere around the time Penny (ph) Schafer, head of a Philadelphia bartenders local, died. Hanley told Natale he was putting Ernie Potts, an International employee, in charge of Schafer's local and there might be trouble from other union people because the local had been promised to someone else. Hanley told Natale to make sure no one bothered Potts.

At one of the meetings Hanley told Natale that they were going to get control of the pension fund money and would begin loaning it out, like the Teamsters. Ralph got excited about the money he could make from finders fees.

During this period, at Hanley's urging, Ralph bought a house next to Hanley's in Palm Springs. Ralph and his family went there on vacation several times.

BENEFIT PLAN KICKBACKS

With respect to Ralph Natale's involvement in kickbacks relating to the dental plan that was in effect for the union membership in Camden, I have previously testified before the New Jersey Commission of Investigation that Larry Smith, a consultant for the dental plan, paid such kickbacks to Ralph Natale. My testimony on this point has been as follows:
I met Larry Smith around 1972 and was reintroduced to him by Ralph Natale around 1975. Smith was a consultant for union dental plans as well as pension and severance plans. Regarding Local 170, Ralph Natale had it set up for his cousin Nicky Altimari to be the consultant for the dental plan. I attended a meeting between Bruno and Natale when Bruno told him Larry Smith was to get Local 170's consultant business not Natale's cousin.

Nick Altimari told me once that Smith was screwing Ralph because he wasn't giving him enough kick back money.

Sometimes when we had meetings with Bruno, Testa, Narducci and some of the others Smith would be there. This was when he had a new plan to present or something like that.

Once or twice I saw Larry Smith hand Ralph an envelope. Ralph would say "that's my man", and after Smith left Ralph would take the money out and count it. Ralph would give some of this money to Angelo Bruno. I personally took some envelopes of cash from Ralph and delivered them to Frank Sindone, a member of Bruno's organized crime family. One time I brought $7,000, another $10,000. At one of our meetings Smith handed an envelope to Bruno directly.

During my association with Provenzano and Sheerhan I became acquainted with Eugene Boffa, Sr. Among Boffa's various businesses he operated an employment agency in Atlantic City. On one occasion, at the FBI's direction, I recorded a conversation with Boffa.

This recording has been played at two criminal trials. The first was the trial of Boffa in July 1981 in Delaware, the other was Frank Sheerhan's trial in Delaware in October 1981. Both Boffa and Sheerhan were convicted. A transcript of the conversation follows:

Boffa: ..."Oh shit. Then I might run into Atlantic City.

Allen: Oh, that's a busy day. Is that every day like that, Gene?

Boffa: You know, I don't bother like, even with Atlantic City (pause) I'll give you an example (pause) this guy is hot shit there, the union guy down there. He was a nice guy so come, I said, 'Here, buy yourself something.'

Allen: What union? Teamsters?

Boffa: Uh, no. The other guy, uh, Frank Gerace.

Allen: Oh, you want something done with him?

Boffa: No, he's all right.

Allen: Okay, okay.

Boffa: I said, 'Here buy yourself something because (intelligible),' I says, 'this has nothing to do with this, all right?' So he says, 'Hey, don't give him nothing. It goes to us.' 'Hey,' I said, 'don't give him a shit. I haven't given him anything.' It's just like if you came into me and, uh, I threw you a tip or something. I'm not, uh, I'm not paying you off. I'm not saying I give it to you, I don't want to give it to them. It had nothing to do with them, he didn't use his head. So, now I can't give him nothing even if I want to.

Allen: Hm, and he told them? Who, who did you tell?

Boffa: He told Frank [Sheerhan, Teamsters Local president].

Allen: Oh, these people.

Boffa: Well, I (pause), hey, I don't give a shit.

Allen: Yeah?

Boffa: I had nothing to hide.

Allen: What you should have told Frank [Sheerhan] is, 'Hey, it's none of your business, you know, if I want to give him [Gerace] something, it's okay.'

Boffa: ...as long as I give it to you [Sheerhan]

Allen: Yeah, sure.

STATEMENT OF ARTHUR ROTLEDGE

Mr. Chairman and members of the Subcommittee, I welcome the opportunity to appear before the Subcommittee today to discuss the very important issues raised by the witnesses who today preceded my appearance.

As you know, I have been intimately involved with the organized labor movement in the Hawaiian Islands for the past 44 years. By way of background, in 1913, when I was six years old, my family emigrated from Poland to the United States. We resided in various parts of the country and, as I grew into adulthood, I worked at va ious jobs. My last job on the mainland was as a bartender in San Francisco. In 1938, I moved to Hawaii.

When I first arrived in the Territory of Hawaii, since I had a Transfer Card from Local 41 of the Bartenders' Union, San Francisco, I transferred into the then newly formed Local 5 of the Hotel and Restaurant Employees Union in Honolulu. At that time organized labor on the Islands was relatively non-existent; there was no unified labor movement on the Islands. For example, the employees in the service trades and in the private sector were not unionized. The economic and working conditions existing in Honolulu were deplorable. I saw that a need existed and became actively involved in the organization of the Local, with a view toward working to improve the wages, working conditions and benefits for its members. And while I first became involved in organizing efforts for the Hotel and Restaurant Employees Union, Local 5, in about 1944 we had consolidated the Dairy Workers, Gas Workers and Brewery Workers into Local 996 of the International Brotherhood of Teamsters. Because of my organizing efforts on behalf of Local 5 and Local 996, I was elected President of both Locals.

In 1951, the Hawaii Federation of Labor purchased a piece of property in Waikiki and a small house which we moved onto the property. The Hawaii Federation of Labor, which later legally changed its name to Unity House, Inc., was established as a non-profit, tax-exempt corporation in accordance with Hawaiian law with stated purposes separate, distinct and apart from those of either union Local. We moved the offices of both Local 5 and

Local 996 into the house, which later became known as Unity House. The objects and purposes of Hawaii Federation of Labor, as set forth in Article III of its corporate charter are:

> 1. To bring together in a benevolent and fraternal organization all members, past members, and friends of the American Federation of Labor in the Territory of Hawaii, including the Hotel, Restaurant Employees and Bartenders' Union, the International Brotherhood of Teamsters, and the Transit Workers Union, Independent;
>
> 2. To support the Government of the United States of America to promote democratic principles, and to inspire in its members a sense of civic responsibility;
>
> 3. To promote the true and proper interest of its members and foster cordial and friendly relations between them and the members of other similar organizations;
>
> 4. To secure and retain the goodwill, confidence and respect of the community in the democracy and integrity of its members;
>
> 5. To investigate and study all legislative and political matters affecting the community and to give the results of such investigation and study to the members of the organization and to propose legislation for the benefit and welfare of the community;
>
> 6. To publicize to the people of the Territory of Hawaii that the members are opposed to all forms of government that are in opposition to the democratic institutions of the United States of America and to bring to the knowledge of the people of the Territory of Hawaii that the members are hard-working people desirous of improving their way of life for themselves and their families in keeping and in harmony with the aims and principles of the Government of the United States;
>
> 7. To create harmony and obtain the cooperation of public officials in the attainment of the ideals herein set forth;
>
> 8. To develop a code of ethics among the members and to raise the standard of their living and working conditions and to wholeheartedly cooperate in every way with the unions in which they may be members;
>
> 9. To ccoperate with all other organizations which have for their fundamental principles and ideals the American form of government;
>
> 10. To familiarize and acquaint the members with pending legislation and enactments affecting their interests and welfare;
>
> 11. To develop a feeling of benevolence and fraternal fellowship and friendship among all members and to devise ways and means to assist members and their families when in trouble and need or in distress;

12. To acquire and provide suitable quarters for the meeting, assembling, recreation, and education of members and their families.

In that the two Local unions were sharing a common facility, the Unity House established a charge for each union in the amount of 80 cents per month per member. This money was used to defray the costs of rent, telephone, clerical and secretarial help, printing, copying, supplies and other such office overhead and equipment. Later on the 80 cents per month was increased to $1.00 per month per member and that charge to the local unions remained the same for the duration of time that each respective Local used the Unity House as a headquarters.

By 1956 we realized that the small house had become inadequate to provide all of the services and facilities required by the Locals. The membership of each of the Locals had grown substantially over the years. We razed the small house and built in its place a six-story office building. In addition to being tenanted by Local 5 and Local 996, this building has also housed the Hotel Workers Pension and Health and Welfare Trust offices, the Dairy Workers Pension and Health and Welfare Trust offices, the Teamsters Pension and Health and Welfare Trust offices, two law firms, a travel agency, a mental health clinic and the Variety Club. Local 5 moved its offices from the building in early 1980.

As tourism increased in Hawaii, the Unity House realized that there was a need for a facility for the training of Hawaiian Islanders in the growing hotel, restaurant and bartending industries. Accordingly, in 1972 Unity House built the Waikiki Marina Hotel on land that it owned which adjoined Unity House. The ownership and management of the Hotel was placed in a newly formed corporation, organized under the laws of the State of Hawaii known as Waikiki Marina, Inc. All of the stock of that corporation is owned by Unity House, Inc.

Whatever monies the Hotel has generated have been used for and applied to the operation and maintenance of the property and the payment of the salaries of Waikiki Marina Hotel employees. Any profits realized by the Hotel have gone into Unity House, Inc. to be used for its objects and purposes as set forth in its corporate charter.

As the Locals grew and the potential for conflicts increased in the absence of a joint council or joint board of the respective Internationals of the Teamsters and the Hotel Workers Unions on the Island, in 1970 we decided to form the Unity Council. The Council acted as an inter-local coordinating council for the ultimate benefit of the employees of the respective locals and as a unifying force coordinating organizing activities throughout the Islands. Subsequently the Teamster Local was divided into two separate Locals and a third Local was chartered. Consequently, the International Brotherhood of Teamsters chartered Joint Council 50. This new Joint Council assumed the responsibilities formerly exercised by the Unity Council on behalf of the three Teamster Locals and Unity Council was subsequently dissolved. Unity Council was never a separate corporation or entity but operated merely as a branch of Unity House.

Mr. Chairman, I take pride in whatever role I have had in the growth of organized labor in the State of Hawaii. When I first came to the Islands, Local 5 had less than 100 dues paying members. As of September, 1978, when I completed my term as President of Local 5, it had a dues paying membership of in excess of 10,000 members. Similarly, during my leadership of Local 996, the membership grew from less than 2,000 dues paying members to nearly 6,000 members. No less heartening has been the success of the Unity House. What began as a dream and an experiment more than 30 years ago has become more successful than anyone could have dreamed possible. While much of Unity House's current financial worth has resulted for the tremendous appreciation of land in Hawaii, it has grown from literally nothing to an organization with assests currently valued at between 15 to 18 Million Dollars. In addition to its financial success, I believe that Unity House has been a major factor in the success of organized labor in the Islands. It has provided resources, meeting halls, printing facilities and support to numerous unions, including Locals 5 and 996. Through the hotel, it has provided hundreds of Hawaiian Islanders with the training and experience necessary to obtain jobs serving Hawaii's

important tourist industry. In short, I believe that the success of Unity House is a valuable lesson which could be applied in other areas to strengthen and maximize the resources of organized labor.

I come before this Subcommittee pursuant to a subpoena issued by its Chairman in order to respond to your inquiries regarding these matters to and discuss the success of Unity House. As I stated at the outset, I welcome this opportunity to appear and to answer questions concerning these issues.

However, I am compelled to note that there have been various allegations circulated about my having received personal gain from the various positions which I have held in Locals 5 and 996, the Unity House, the Unity Council and the Waikiki Marina Hotel. To this Subcommittee I state categorically that, with the exception of the salaries which I have earned and drawn as President of Local 5 and as President of Local 996, I have never accepted or received any money or other consideration from any of the entities that I have mentioned.

Since I became involved in the American labor movement 44 years ago, the movement itself has changed drastically. I was one of the first labor organizers in what was the then Hawaiian Territories. The way we organized in the '30's and '40's was the way things were done back then, and I guess I am among the last of that breed of labor leader. I know things have changed. Things are conducted differently from when I was first on the picket lines, helping and trying to build the labor movement in the Pacific. I may have made some mistakes along the way, but I have been scrupulously honest with all funds of all entities which have been entrusted to my control. I have devoted all of my efforts for the benefit of organized labor and the members of local unions with which I have been proud to be associated.

○